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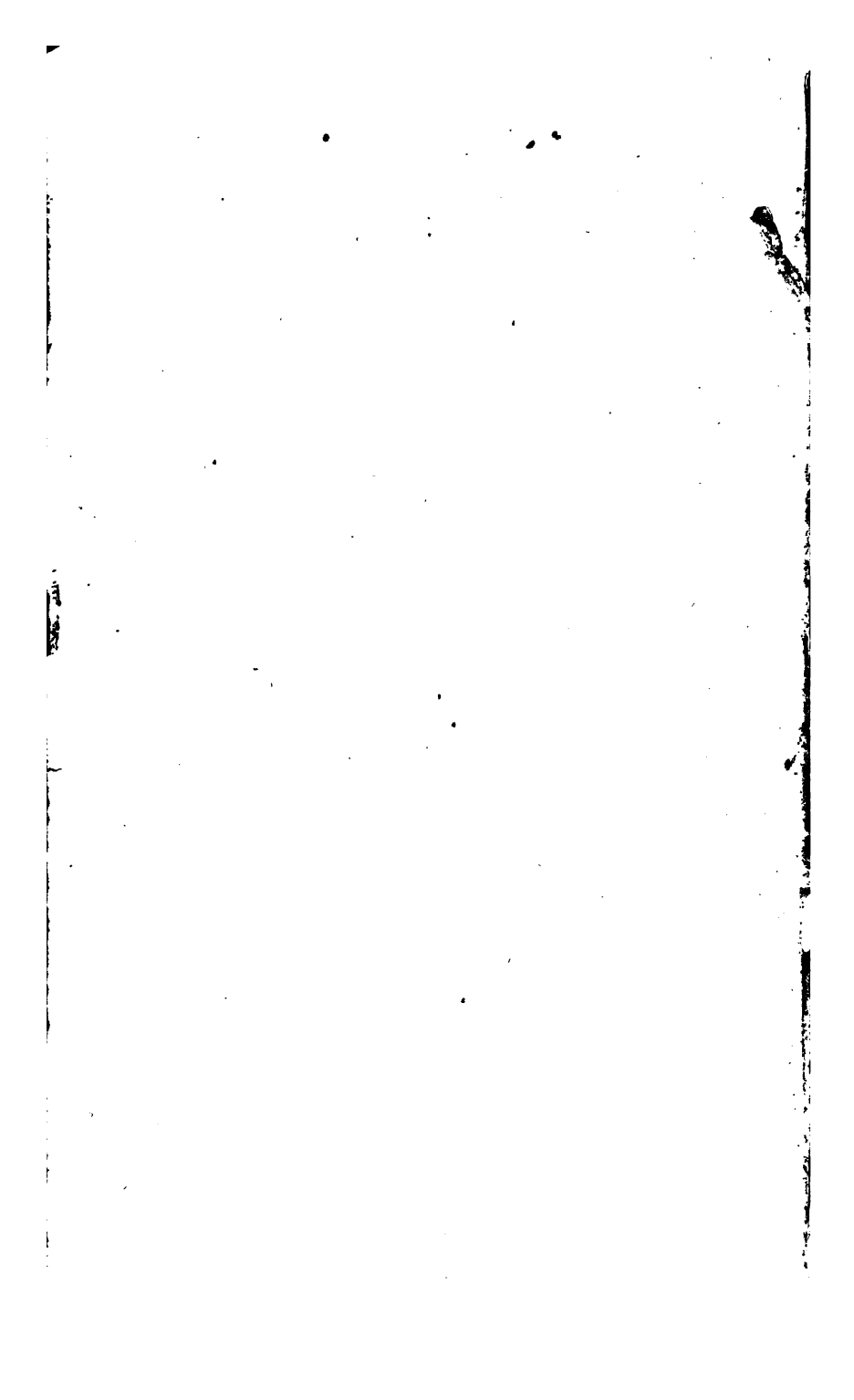
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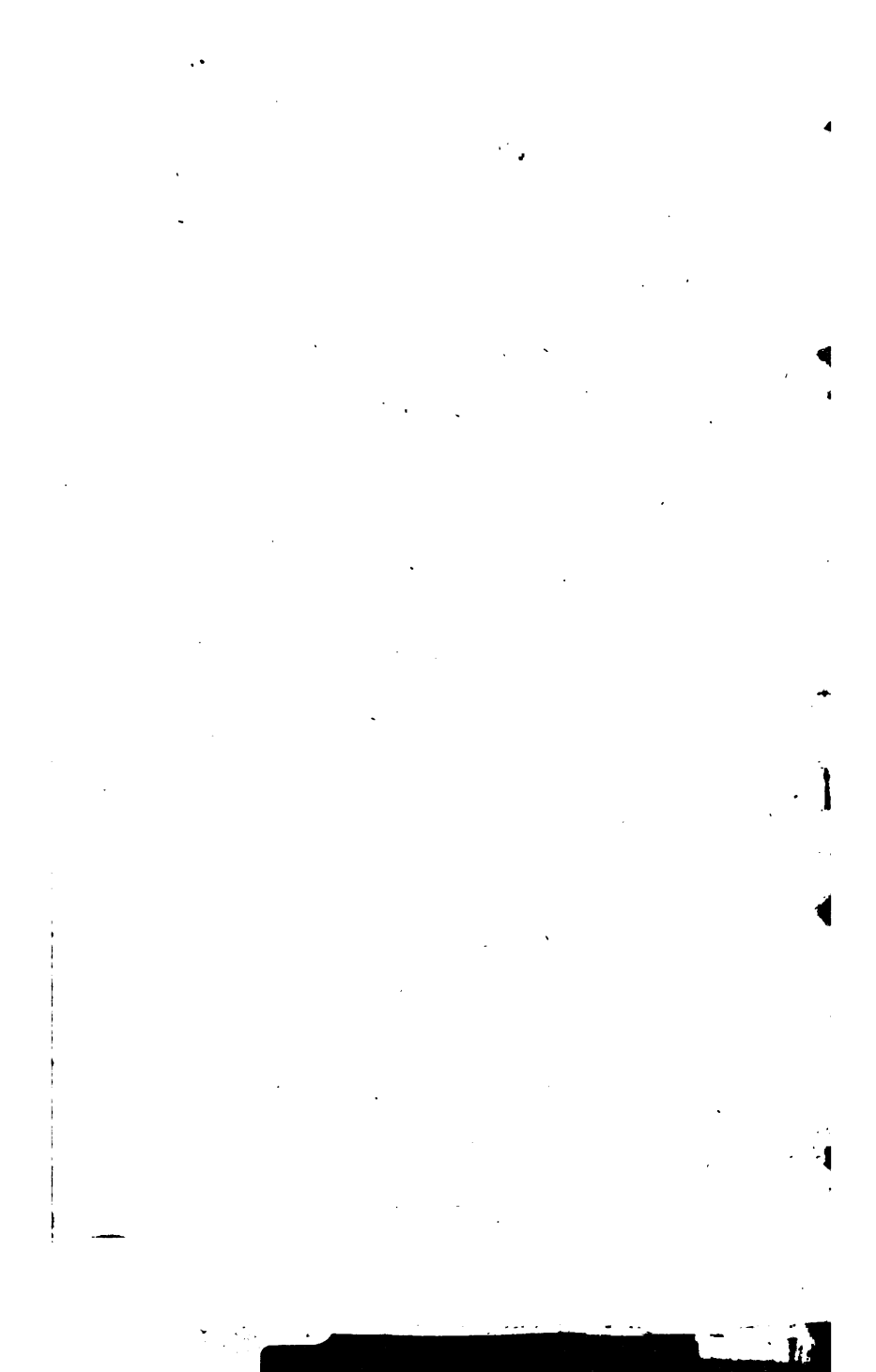




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**AN ABRIDGMENT**  
**OF THE**  
**ACTS**  
**OF THE**  
**GENERAL ASSEMBLY**  
**OF THE**  
**Church of Scotland,**  
**FROM 1560 TO 1830 INCLUSIVE.**

**WITH A**  
**SUMMARY VIEW OF THE VARIOUS ACTS OF PARLIAMENT RELATIVE**  
**TO THE CHURCH OF SCOTLAND;**  
**A PRACTICAL ACCOUNT OF THE COURT OF TEINDS**  
**A DIGEST OF DECISIONS IN THE LAW OF SCOTLAND, RELATIVE TO**  
**THE CIVIL RIGHTS OF THE CHURCH AND CLERGY;**  
**NOTES ON THE POOR-LAWS, PAROCHIAL SCHOOLS, &c.**

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*Nec tamen consumebatur.*

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**MDCCCXXXI.**

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## INTRODUCTION

TO

### ABRIDGMENT OF THE ACTS OF THE GENERAL ASSEMBLY.

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IN the year 1706 an Abridgment of the Acts of the General Assemblies of the Church of Scotland was compiled by the Reverend Mr. Bell; and about the same time Mr. John Dundas, principal clerk of the Assembly, and agent for the Church, undertook a similar work, which was brought down to the year 1720. In 1801, the Reverend Robert Gillan republished this latter work, as if compiled by himself; and in 1821, he published a new edition of it, with a continuation up to that date.

Mr. Dundas's Abridgment, of which indeed, so far as it goes, Mr. Gillan's is a servile transcript, both in the matter and arrangement, was in its original plan and structure objectionable; for, besides the legislative acts of the supreme authority of the Church, strictly considered, it was encumbered with a mass of addresses, exhortations, and other papers, which were of a temporary nature, and which never were clothed with the character of statutory enactments—with overtures, which never became laws, and with a sort of running

*index materialium* interspersed, as well as with large and endless quotations, under different heads, from the form of process, which formed in itself only one act of the General Assembly, and which, by this awkward arrangement, was merely split down, and often repeated very unnecessarily. This original defect was also most religiously preserved by Mr. Gillan, who, after filling a great portion of his abridgment with the several parts of the form of process, annexed the whole of it to his continuation of Dundas.

Mr. Dundas's Abridgment embraced only the acts of the Assemblies from the restoration of Presbytery in 1638 to 1720. But one of the first acts of the celebrated Assembly of Glasgow (28th November 1638) was to ascertain and declare the authenticity of the registers of the Church from the year 1560 to 1590; and of the various acts of the Church during that early period of its history, no trace is to be found in the abridgments now referred to, although these embrace the first of our ecclesiastical statutes.

Soon after the abolition of Episcopacy in 1638, the fathers of the Church saw the necessity of guarding against innovations on the laws of the Church; and in 1639 and 1641, acts were passed which required the consultation of synods and presbyteries in the framing of new laws. Notwithstanding these impediments, however, a further check became necessary on rash legislation; and on the 25th December 1695, an overture was brought in on the subject, for the consideration of the Church in its subordinate judicatories. On the 8th January 1697, in consequence of that overture, an act was passed, which is termed *the*



*Barrier Act*, and which fixed permanently the mode of legislating in the General Assemblies of the Church. By that statute it is fixed that no act of the General Assembly shall have the force of a law, except such overtures as are previously transmitted to presbyteries, and are approved of by a majority, whose concurrence shall be reported to some subsequent Assembly. Since the passing of the Barrier Act, therefore, no interim acts or overtures are to be regarded as standing laws of the Church; and in compiling an abridgment of these, it is proper to exclude entirely all such temporary and now inoperative arrangements; while, with respect to the earlier resolutions and acts of the Church prior to that time, it is equally proper to preserve a summary and practical record of those proceedings, which indicate the early practices and the genius of our branch of the reformed church. Upon these principles, therefore, the following Abridgment is digested; and so far as the materials are accessible, it is hoped that it will be found more luminous and useful than any of the abridgments which have heretofore been given to the public.

In attempting a work of this kind there are many difficulties to be encountered. The original records of the Church, from its first establishment in 1560, which were declared authentic by the Assembly 1638, have been purloined from the repositories of the Church, and are now kept as a sealed book in Sion College, from that church whose undoubted property they are; and the only traces of their substance are to be gathered from certain MS. abstracts made of them, and from the Histories of Calderwood, Keith, and Spot-

tiswood : And although there are various printed editions of selected acts from 1638 to 1649, there are many unprinted acts, some of them evidently important to our ecclesiastical history and institutions, of which only an index has been published. And finally, the existing original records of the Church, in the custody of the clerks of Assembly, are substantially shut up from useful consultation by the total want of any suitable accommodation for their deposit and inspection by the members of the Church who may wish to examine these Registers. Under such disadvantages a perfect abridgment is at present quite unattainable.

The Editor of the present Abridgment, in the course of his researches, naturally applied to the Reverend Dr. Lee, the principal clerk of the General Assembly, for information touching some of these matters. No one is so well qualified as Dr. Lee to furnish the very best information on the subject; and he takes the liberty of subjoining an extract from Dr. Lee's polite answer to his inquiries. That gentleman has devoted much time and labour and expense in his endeavours to recover and arrange the records of the Church; and his exertions have been alike distinguished by zeal, perseverance, and intelligence, in the pursuit of his object. That his exertions have not yet been crowned with that degree of success which they merited is to be regretted; but it is to be hoped that ere long his praiseworthy endeavours to restore to the Church the interesting monuments of her early history, will result in the full accomplishment of his laborious and honourable undertaking.

It may be proper here to introduce a note from Bishop Keith's history, illustrative of the fate of the earlier records above alluded to.\* " When the restoration of the royal family, in the year 1660, had restored likewise the episcopal government of the church, the fore-mentioned books of register were carefully preserved by some of the presbyterian form, until one day a search having been appointed within the city of Edinburgh for apprehending of suspected persons, these records, together with many other papers pertaining to the kirk, chanced to be siezed in a private corner. The Bishop of Edinburgh (John Paterson) had allowance of the privy council (of which himself was a member) to convey these books of register, &c. to his dwelling-house, and they continued in his custody even till after the Revolution in 1688. Some time afterward, that prelate put these registers into the hands of the Honourable Master Archibald Campbell, cousin of the family of Argile, now residing in London. And to this gentleman those of the present establishment have lately made proposals for recovering them ; but hitherto they are, as I am informed, come to no agreement in the matter. By this account the reader will easily discern that the registers in the possession of Mr. Campbell do contain all the original minutes, overtures, &c., according as they have occurred in the course of business. And from these books it is that the present register of Assemblies (abusively so stiled) has been extracted, which contains nothing else but an *abbreviate* of such acts, overtures, minutes, &c. as have been deemed proper for the public view, digested into form and

\* Edit. 1736.

method. Several MS. copies of this extract (made most probably after the year 1638) are to be found in our publick repositories and elsewhere, and which, I suppose, will be found likewise to agree pretty uniformly, as having been all copied from *one*. But then, besides this register (I call it so still for conformity of speech only), there is another more large than the former, which Mr. Calderwood, who lived in the time, and inspected, no doubt, the original books, presented to the Assembly in 1638, has, for the embellishment of his large church history, copied out and inserted into the same."

Since the time thus referred to by Bishop Keith, when the registers fell into Mr. Campbell's hands, the history of their obscurity is brief. He bequeathed them to the trustees of Sion College, under absolute and rigorous conditions that they were never to be restored to the presbyterian church of Scotland, although he had not and could not possibly have the most slender shadow of a legal title either to possess or to bequeath them. Hitherto all the means which have been adopted for defeating this unlawful abstraction of the public records of our national church, effected by the morbid and bigotted antipathy to our establishment of a devotee to episcopalian polity, have proved abortive. But at the General Assembly 1829 measures were taken, by an application to the legislature, for restitution to the church of its undoubted property; and we trust the resolutions then adopted will be vigorously followed up, not by the church only, but by the people of Scotland petitioning earnestly for the restoration of a record which is not less interesting to the histo-

rical inquirer, than to those who trace the civil and religious privileges which the presbyterian church enjoys, to the ardent and pious exertions of those Christian patriots who laid the foundation of civil and religious liberty in the land which we inherit from our forefathers.

The following notices from Dr. Lee's letter to the editor (7th April 1830) are pertinent to our present purpose :—

“ The books in Sion College form the whole of the existing Record of the Assemblies of the Church prior to the year 1638. Nothing of that period is extant in Scotland, with the exception of an abstract, of which there are two copies in the Advocates' Library, one in possession of the Church, and one at Glasgow.

“ The reprinted acts from 1638 to 1649 have not been preserved. Some fragments remain, but they are unauthenticated. I obtained a number of them about twelve years ago in Fife, and I had no difficulty in tracing them to Bishop Paterson,\* as part of his family papers were mixed up with them.

“ Bell's Abridgment of the Acts of Assembly is far more meagre than Dundas's. It extends to 88 pages 12mo, or rather 18mo, and it is printed in a large type. It goes back to 1638.

“ You are aware that there is no convenience

\* JOHN PATERSON, son of John Paterson, Bishop of Ross, was first a minister at Ellon, in Aberdeenshire, afterwards minister of the Tron Church, and Dean of Edinburgh, and was appointed Bishop of Galloway 23d October 1674, in which see he continued till 29th March 1679, when he was translated to that of Edinburgh, where he continued till 1687. He was promoted to the Arch-episcopal see of Glasgow, of which he was deprived at the Revolution in 1688. He died at Edinburgh 8th December 1706, in the 76th year of his age.—ED.

at present for consulting the books of the Assembly, such as they are."

These particulars are necessary to be stated in submitting to the public any Abridgment of the Acts of the General Assembly of the Church of Scotland ; and it is by gleaning the scattered materials from the sources now alluded to, that the following Abridgment has been made up.

It is only necessary further to explain, that in making up that portion of this Abridgment which embraces the period betwixt 1560 and 1638, it has been considered expedient to give the substance of the acts, in their chronological order, under the head "ACTS OF ASSEMBLY," rather than in detached shreds, arranged alphabetically, with reference to the different subjects of them—leaving it to the reader, by consulting the index, to trace out the acts upon any particular subject upon which he may desire information. With this exception, the more prominent *subjects* of the acts will generally be found in an alphabetical order somewhat similar to the classification in Dundas's Abridgment.

ALEX. PETERKIN.

*Edinburgh, 22d April 1831.*

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ABRIDGMENT  
OF THE  
ACTS  
OF THE  
GENERAL ASSEMBLY.

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1560, Dec. 20.] I. THE *first* General Assembly of the Church of Scotland was held at Edinburgh, on 20th December 1560 ; and the following is an abstract of its proceedings relative to ecclesiastical affairs.

1. A list of persons who were thought best qualified to preach, to minister the sacraments, and to read the common prayers publicly in all kirks and congregations, was given up by ministers and commissioners.

2. A list given up of others thought apt and able to minister.

3. A presentation by Sir John Borthwick in favour of John Ramsay, a minister of Aberdour and Torry.

Dec. 21.] 4. The parishioners of Restalrig appointed to repair to Leith kirk, and the kirk of Restalrig ordered to be razed and demolished, as a monument of idolatry.

5. Declaration in reference to marriage in the second and other degrees of consanguinity forbidden by the pope, That by the law of God, marriage may be solemnized betwixt parties in the second, third, and fourth degrees of affinity and consanguinity, and such others as are not expressly prohibited by the word of God. The authority of the estates craved to be interposed to this finding, as the law.

Dec. 27.] 6. The election of ministers, elders, and deacons, to be made publicly in the kirk, and premonition to be made upon the Lord's day preceding the day of election.

7. Order that parties for carnal copulation betwixt the promise and solemnization of marriage shall make public confession of their offence.

8. It was ordained, that such as had borne office in the popish church, if their commission was honest, should be supported with alms of the church, like other poor.

9. Resolutions to supplicate parliament and the lords of Privy Council, that none be suffered to be lords of session, sheriffs, stewarts, bailies, or other judge ordinary, except such as were professors of the reformed religion, and that all ministers of the church be removed from such offices :

10. To petition parliament to take order with the confirmation of testaments, that pupils and orphans be not defrauded; and that laws thereanent may be made in their favour :

11. To petition parliament to inflict punishment upon idolaters, and maintainers of idolatry, and those who say mass, or cause mass to be said, or are present thereat. A list of such persons inserted.

The Assembly was adjourned to 15th January following, but no Assembly was held until May 1561. On 17th January 1560, the Book of Discipline was presented to the secret council, and an act passed approving thereof, with a condition that bishops and other beneficed persons should bruike the revenues of their benefices during their lives, they sustaining and upholding the ministry and ministers of the reformed church.

1561, *May 26.*] II. The *second* General Assembly was held within the tolbooth of Edinburgh. The Assembly resolved that a supplication should be made to the Privy Council :

1. For suppressing idolatry (popery) throughout the whole realm, and punishing the users thereof, maintainers of the same, members and frequenters thereof :

2. For maintaining a special provision to be made for *superintendents* ; for the erecting and establishing more in convenient places ; and for punishment of those who contemned and disobeyed the *superintendents* :

3. For order to be taken anent the abusers of the sacraments, and contemners of the same :

4. That no letters of the Court of Session be given to answer or pay to any person their teinds, without special provision that the parishioners retain as much in their hands as is appointed to the minister ; and that all sic as are else given be callit in and dischargit ; and likewise that no sheriff give precepts to that effect :

5. That the session and other judges shall not proceed upon precepts or warnings passed at the instance of those who had lately obtained feus of vicarages, parsons' manses, or kirk-yards :

6. That no letters pass until the stipends contained in the Book of Discipline for sustentation of the ministers be first consigned in the hands at least of the principal parishioners :

7. That order be taken for the punishment of those who purchase, bring home, and execute the pope's bulls within this realm.

*May 28.]* 8. A supplication to the above effect\* being read, considered, and advised, the Assembly ordained the same to be presented to the Privy Council, and appointed a committee to present the same, and obtain an answer. The council passed an act granting the prayer of the petition.—*Vide Act of Council.*

*Dec.]* III. The *third* General Assembly held at Edinburgh—but no acts passed. Altercations took place betwixt the courtiers and clergy, of no material importance.

1562, *June 29.]* IV. At this *fourth* General Assembly or Convention, which was held in Henry Low's house, it was ordained,

1. That at every Assembly, superintendents, ministers, and elders convened, be tried in their life, doctrine, and execution of their office ; and that ministers be not removed from their kirks but according to the order set down in the Book of Discipline.

\* *Vide Keith*, p. 502

*June 30.]* 2. The Assembly refused to acknowledge Alexander Gordon, Bishop of Galloway, for a superintendent, or to admit him to that charge, till they understood that the kirks of Galloway craved him to be their superintendent, and till he subscribed the Book of Discipline.

3. The Assembly ordained the superintendent of Lothian to summon diverse ministers to be called to answer for certain offences laid to their charge.

It was enacted,

4. That ministers sall be subject to the superintendents in all lawful admonitions, as is prescribed as well in the Book of Discipline as in the manner of admission of superintendents.

5. That so manie ministers as have been accepted of their kirks, after trial offered and liberty granted to them to receive or refuse, sall remaine as lawful ministers, unless from that time they have been found criminal in life or doctrine; and that such as serve in kirks without public and free admission, it sall be free for the kirks to receive or refuse them, as they be able to render the cause why they refuse.

6. That the examination of all those who have not been examined already sall be in the presence of the superintendent and of the best reformed kirk within his bounds, nearest the place where the minister is to be established; providing always that the judgment of the best learned being present be sought in the examination and admission; and that he who sall be so admitted sall not be removed, but according to the order of the Book of Discipline.

7. That superintendents tak account what bookes the minister hath in store the time of their visitation, and how the said minister and every one of them doe profite from time to time in reiding and audying the samen.

8. The Assembly ordained the superintendent of Lothiane to summon Michael Smith, pretended minister of Strabroke, to purge himself of certain crimes laid to his charge; and Mr. George Hepburn, parson of Hawick, to answer to such things as should be laid to his charge.

The slander raised upon Robert Hamilton, minister of Hamilton, was remitted to the trial of the superintendent of Glasgow, to remove him out of the ministrie, if he thought expedient: The Assembly decerns letters to be directed to the elders, deacons, and whole kirk of Craill, to require them to signify to the Assembly whether Mr. John Melville, their minister, was accused by the whole kirk, or by any private faction.

*July 1.]* 9. Ordained that the minister shall diligently require his elders, and every one of them, to assist him in all their lawful meetings, wherein if they be found negligent, he shall admonish them; and if still negligent, then shall he, with as many of the parishioners as will subscribe with him, notify the same to the superintendent; and if the defaulter profit not by the superintendent's admonition, then, by his advice, disobedients shall be excommunicated. Magistrates not to be exempted from the same punishment.

10. That none be admitted to kirks without the nomination of the people, and due examination and admission of the superintendent, and who have been otherwise intrusted since the year 1558 to make supplication for the provision, according to the foresaid act.

11. It was concluded that ministers, exhorters, and readers, should give in their particular complaints relative to non-payment of their stipends; and supplications agreed to be made to the queen, relative to stipends in burgh charges, manses, glebes, kirk-yards, and for maintenance of the poor and schools.

*July 2.]* 12. Mr. John Sharp charged to re-enter the ministry, reserving the place where he was to minister for after deliberation.

13. Ordained that Mr. John Craig should be joined with Mr. Knox in the ministry of Edinburgh; that Mr. James Greg should assist the superintendent of Glasgow till Michaelmas next, and thereafter to teach in the parishes belonging to Lord Erskine till next Assembly. George Hay, superintendent of Glasgow, and Robert Hamilton of Mauchlin and Ochiltree, were appointed to preach in the unplanted kirks successively till the next Assembly.

James Paul was appointed to minister at Melros, and Robert Paul in Dumblane, till next Assembly.

14. David Forrest requested to take on the ministry. Mr. John Scharp and Robert Wilson ordained to serve in such kirks as the Assembly should appoint.

15. Concluded that Mr. John Scharp should re-enter the ministry; and serve in the kirk which the superintendent of Lothian should appoint; and if he refused, that the censures of the kirk be execute against him. Several other persons appointed to teach in the unplanted kirks of the Merse, their month by course.

16. A complaint from an heritor of Calder that the superintendent of Lothian had not preached sufficiently often in that parish. The complaint dismissed.

17. The Assembly being informed that institution had been given, by virtue of pope's bulls, of a prebendary, ordained that the superintendents of Fife and Lothian take order *respective* with the parties, and inform the Justice-Clerk to call them to account for breaking the queen's acts, if they find the matter clearly tried; and that the superintendent of Lothian signify the matter to the duke.

18. Concluded that supplication be made to the queen for removing of idolatry; but the manner how referred to the advice of the godlie in her majesty's Privy Council.

19. That supplication be made to the queen for punishing all vices commanded by the law of God to be punished, not punishable by the laws of the realm, viz. blasphemy, contempt of God's word and sacraments, profanation thereof by those not lawfully called to ministration thereof, perjury and taking the name of God commonly in vain, breach of the Sabbath, keeping markets, adultery, fornication, filthy speeches—that mass-mongers be punished.

20. That suit be made to the Justice-Clerk to take order against disobedients to superintendents.

21. That application be made to Privy Council for assistance to superintendent of Angus to visit Banff and Aberdeenshires.

22. Anent the action of divorcement it was thought good to make supplication to the Secret Councill, that either they transfer the judgment of divorcement to the



kirk and their sessions, or else establish men of good lives, knowledge, and judgment, to order the same, providing the said lords provide how the guilty persons divorced shall be punished.

23. The supplication which was to be presented to the queen was read in open audience of the Assembly, and approved.

24. The Assembly dissolved, and appointed to convene again on 25th December following.

1562, Dec. 25.] V. The *fifth* General Assembly was held at Edinburgh, where were present, superintendents, ministers, and commissioners.

1. Robert Cuming, schoolmaster of Arbroath, was complained upon by the laird of Dun, superintendent of Angus and Mearns, for infecting the youth committed to his charge with idolatry.

Dec. 28.] 2. The superintendents of Fife, Angus, and Lothian, and the ministers of Lothian and Stirlingshire, were successively removed, and inquiries made touching their manners, conversation, doctrine, and execution of their office. Charges were heard against them. The superintendent of Angus rendered up his commission.

3. It was concluded that superintendents should present the names of ministers, &c. to the lords appointed to assign church funds, and that in their presentations the entry of the presentees be specified to be at Allhallowmas, Lammas, Candlemas, or Beltan, together with the year that they may receive payment at the term after their entry, and quarterly thereafter; and this order appointed to be observed.

4. Anent the sustentation of ministers, exhorters, and readers, within burrows, the comptroller required the commissioners of burghs to signify to him what relief they would make for the support of their ministers.

Dec. 29.] 5. Ordained, conform to the fourth head of the Book of Discipline, that all persons serving in the ministry who had not entered on their charges according to the order therein appointed, be inhibited, that is, if they have not been presented by the people, or a part of

them ; if they have not satisfied the kirk as to doctrine ; and if, after trial, the superintendent hath not appointed their charges ; and that this act have strength as well against those who are called bishops as others, and ordain the same to be promulgated ; and for contempt censures and excommunication are appointed, &c.

6. Because it is complained that the north country for the most part was destitute of ministers, and that the order of the election and admission of the superintendent of Aberdeen was not put in execution, the Assembly appointed three persons to be prepared in leets, and edicts to pass, and committed the inauguration, in the kirk of Old Aberdeen, to the superintendents of Fife and Angus ; and other ministers put in leet to supply the vacancy to be thus created.

7. Commission given to John Hepburn, minister of Brechin, to pass to Moray to preach, and to send any qualified ministers, &c. to the superintendent, to be appointed for Aberdeen and Banff.

8. David Forrest charged by the Assembly to enter on the ministry, and put in leet for superintendentship of Jedburgh with Patrick Cockburn.

9. Leets appointed for the superintendentship for the planting of kirks in the shires of Dumfries, Galloway, and Nitheadale, and the rest of the west dales.

10. Archibald Keith, minister of Logie and Balmerinoch decerned to be translated from those kirks to a place with a more abundant stipend, provided he change not at his own private opinion, but to have therein the judgment and appointment of the kirks.

*Dec. 30.]* 11. Commission given to John Knox to go to Jedburgh, and to take trial of slander against Paul Methven, minister of that burgh, and to report to the session or consistory of the kirk of Edinburgh, to whom, with the superintendent of Lothian, the Assembly giveth power to decern and pronounce sentence.

12. This Assembly giveth power to every superintendent, within their own bounds, in their synodal assemblies, with consent of the most part of the elders and ministers of kirks, to translate ministers from one kirk to another,

as they shall consider the necessity, and in like manner chargeth the ministers to obey the voice and commandment of their superintendent anent their translating.

13. Ordained that superintendents indict their synodal conventions twice in the year, viz. in the months of April and October, at such days as they shall think good, and that they give sufficient advertisement to the particular kirks, that the minister, with one elder or deacon, may repair towards the place appointed by the superintendents at the days that shall be fixed by them, to consult upon the common affairs of their diocese.

1563, June 25.] VI. The *sixth* General Assembly was held at St. Johnstoun.

1. *Session.* The superintendents of Fife and Galloway tried by Assembly. John Knox reported deposition and excommunication of Paul Methven. A minister removed from a kirk which he had usurped, and placed in another suited to his gifts.

2. The Assembly gave commission to some ministers to plant kirks, preach, visit kirks, schools, colleges; to confer benefices; to procure the eradication of all monuments of idolatry; to suspend, deprive, transplant ministers, in like manner as did the superintendents, and with the like assistance of reformed congregations of learned men in the parts next adjacent, of synods of other associations, whom the General Assembly now and then joined to them, or of ministers meeting for the exercise of prophesying; for as yet presbyteries were not constituted, nor could be, for scarcity of ministers.

June 26.] 3. It was ordained (2d session) that no contract of marriage alleged to be made secretly, carnal copulation following, shall have faith in judgment in time coming, till the offenders suffer as the breakers of good order, and as offensive to the kirk by their scandal, and that thereafter faith shall not be given to that promise, till famous and unsuspect witnesses affirm the same, or else both the parties confess it, and in case that probation or confession follow not, that the said offenders be censured as fornicators.

4. It was ordained, that if any person findeth himself wronged by any sentence given by the ministers, elders, and deacons of their kirk, it shall be lawful to the party so wronged to appeal to the superintendent and the synodal convention, within ten days after; and if the party yet allege himself wronged, it shall be lawful to appeal to the General Assembly immediately following, within ten days as before, and that the said Assembly take cognition of the said appellation, whether it was well appealed or not, and thereafter pronounce sentence, from which it shall not be permitted to the said party to appeal, but that the said sentence shall have execution according to the tenor of the same. *Item*, If the appellant justifie not his appellation before the superintendent and his convention foresaid, that he shall inflict a pain upon the said appellant, as he shall think good, above the expenses to the partie, which penaltie shall be delyvered to the deacons of the kirk where the first sentence was given, to be distributed to the poore; and in like manner, the General Assembly finding it well appealed be the said partie from the foresaid superintendent and convention, shall, as of before, impose a penaltie arbitrarie, to be distributed as said is, together with the expenses to the partie, as is above specified.

5. It was ordained that the instruction of youth be committed to none within the realm, nather in nor out of universities, bot to such as professe Christ's true religion, now publicly preached, and that such as now occupie the places in that profession, as said is, be removed from the same, and to remember that some ordour be made for the sustentation of poore scholars.

6. Instructions given to superintendents with respect to the execution of the act of parliament touching the reparation of kirks.

7. Supplications ordained to be made to the superior powers for constituting judges in consistorial causes.

8. That when any benefice shall vaik, qualified persons may be presented to the superintendent of the province where the benefice vaiketh, that they may be admitted in the places destitute.

9. That where two or three kirks are distant two or

three miles, they may be united, and the inhabitants caused to resort to the said kirks, to heare the word and receive the sacraments.

10. Arrangement with comptroller of thirds of benefices, &c.

*June 27.]* 11. It was ordained that no work could be sett furth in print, or published in writ, touching religion or doctrine, before it be presented to the superintendent of the diocese, revised and approved be him, and such as he sall call, of the most learned within his bounds; and if they, or anie of them, doubt in anie point, so that they cannot resolve clerlie in the same, they sall produce the said worke to the General Assembly, whose order sal be taken for resolution of the said doubt.

12. Commissions given to plant kirks in Nithesdale and Monteith.

13. Commissioners appointed to cognosce in appeal Mr. Magnus Halcro and Margaret Jordan against a sentence of the Bishop of Orkney, in a cause of divorce.

14. Act of Assembly annulling a sentence of the Bishop of Ross, commissioner for the Bishop of St. Andrews, against James Hamilton of Kincavell, sheriff of Linlithgow, for heresy, 26th August 1534.

*June 28.]* 15. Commission given to some ministers to take cognition of complaint given in by superintendent of Fife against minister of Strathmiglo, and to decide thereon, and to notify their sentence and decreet to the superintendent of Angus.

16. It was ordained that every superintendent within his own jurisdiction, should cause warn the shires, towns, and parish kirks, to send their commissioner to the Assembly in time coming, intimating the day and place of meeting; and that superintendents attend the Assembly the first day, under a penalty of 40s. to the poor.

17. John Knox requested to frame a form of excommunication, and to visit the north and preach.

1563, Dec. 25.] VII. The *seventh* General Assembly convened at Edinburgh in the New Tolbooth.

1. Some desultory discussion took place betwixt the

courtiers and the clergy, touching the tithes, and whether or not John Knox had receivit charge from the whole kirk to advertise the brethren to conveyne at what tyme any member of the kirk should chance to be troublit. It was declared that he had got such orders.

2. The superintendents of Lothian, Fife, the West, and Angus and Mearns removed, and complaints against them discussed by the Assembly.

3. For avoiding confusion in reasoning, it was agreed that a MODERATOR should be appointed, to moderate during the time of everie Assembly. Mr. John Willock, superintendent of the West, was appointed during this Assemblie.\*

4. Proceedings (sess. 2) of the various superintendents canvassed by the Assembly.

*Dec. 28.]* 5. Sess. 3d.—Complaints against sundry persons for saying mass. The Justice-Clerk desired the relations to be qualified and delivered to him, and he promised to call them to particular diets.

6. It was ordained that all ministers should give in their supplications to the superintendent, that he might present them to the Lords of Secret Council, that order might be taken for payment of their stipend, and that every minister may have his stipend assigned in the hands where he serves the cure.

7. That the act of parliament anent manses and glebes be more specially condescended upon, and the nobility were requested to condescend that the poor labourers might have the tithes of the ground which they laboured for a reasonable compensation either in money or victual, which was agreed to by many present.

*Dec. 29.]* 8. Sess. 4.—A committee of nobles and clergy appointed to revise the Book of Discipline, and to report the same to the next Assembly, or if a parliament be holden in the meantime, that they report their judgments to the Lords of the Articles, and that they begin immediately after the dissolving of this Assembly.

\* This was the first General Assembly at which a President or Moderator was appointed.

9. It was concluded that offenders sould make their public repentance without exception of persons, and if they refused, that the censures of the kirk sould strike upon them.

10. Forasmuckle as ministers, exhorters, and reiders, remains not at the kirkes quher their charge lyes, but dwells in townes farre distant fra the saids kirks, quherthrow the peiple wants the continual comfort quhilk their daylie presence sould give, be mutual conference of the minister with the flocke, herfor the kirk ordaines the ministers, exhorters, and reiders having manses to dwell in, that they make residence at the same, and visit the sick as they may.\*

11. It was ordained that a bier should be made in every country parish, to carry the dead corpse of the poor to the burial place, and that those of the villages or houses next adjacent to the house where the dead corpse lyeth, or a certain number out of every house, shall convey the dead corpse to the burial place, and bury it six feet under the earth. And that every superintendent request the lords and barons within his bounds to make an act in their courts touching this order, and to cause their officers warn the nearest neighbours where the dead corpse lyeth, to convey it to the grave.

1564, June 25.] VIII. The eighth General Assembly held at Edinburgh, of superintendents, ministers, and commissioners of provinces and kirks. John Willock, moderator.

1. Conference held betwixt certain noblemen and public officers, and a committee of Assembly with respect to the privileges of ministers in censuring the religious and moral offences of the sovereign. The Earls of Argyll, Glencairn, Murray, and Secretary Lethington, were sent by the queen to observe what things were treated in this Assembly.

\* There were several other matters considered at this Assembly, but as they relate merely to the exercise of discipline, and are not of an important character, they are not inserted.

2. It was ordained that no minister placed in any congregation, leave the same, and pass to another without the knowledge of the flock, his superintendent, or whole kirk, and that the cause be considered by the superintendent or Assembly, whether it be lawful or not.

3. It was ordained that every minister, exhorter, and reader, shall have one of the psalm-books lately printed in Edinburgh; and use the order therein contained in prayers, marriage, and ministration of the sacraments in book of common order.

4. A motion was made that it might be demanded of the commissioners (superintendents) of Galloway and Orkney, if they thought they might with a safe conscience discharge both the duties of a superintendent and of a lord in the session. Postponed to a subsequent meeting, and renewed at another Assembly.

5. The Assembly chose James M'Kaichney to be solicitor for the kirk.

1564, Dec. 25.] IX. The *ninth* General Assembly held in the Upper Tolbooth—John Erskine of Dun, moderator.

1. It was ordainit that no question be proponit to any brother unto the tyme the affaires of the kirke and order thereof be first treatit and endit; and thereafter, if any brother have a question worthy to be proponit, that the samen be put in wryte and presentit; and if the samen requyres hastie resolution, it sall be decydit in this present Assemblie, before the end thereof, otherwayes the decision of the samen sall be referit to every one of the superintendents within whose bounds the question is proponit; and they, and every one of them, with ane certain number of the ministers, as they sall think meett to appoint, for assisting to hear the reasoning of the said questions, and thereafter their reasons to be put in wryte, affirmative or negative, quhilks every one of them sall report to the next Assemblie.

2. The same day the Assembly resolved to present to the queen seven articles touching popery, ministers' stipends, &c. requiring an answer to every one of the particulars.



*Dec. 26.]* 3. Act anent election of superintendent of Aberdeen.

4. Commissions to superintendents to try ministers, &c. accused of ignorance, &c.

5. Ministers, &c. to have psalm-books, and use order therein in prayers, marriage, and ministration of sacraments.

6. A petition considered relative to a decret of nullity, pronounced by Erskine of Dun and others, touching a promise of marriage betwixt Patrick Hardie and Beatrix Livingston; and the decret approved.

*Dec. 27.]* 7. On the petition of Paul Methven, the Assembly admitted him to repentance, refused to expunge the process against him from the record, and to admit him to the ministrie.

8. It was statute and ordained that no minister shall admit persons trilapsed in fornication, drunkenness, &c. to repentance, but remit them to the superintendent, and that they satisfy the kirk moe days than one, as the superintendent sall think good.

1565, *June 25.]* X. The *tenth* General Assembly.—Present, superintendents, ministers, and commissioners of shyres and kirks—John Willock, moderator.

1. Superintendents reported their visitations.

2. Affairs of particular churches and ministers considered.

*June 26.]* 3. The Assembly required the nobility to supplicate the queen for enforcement of the laws against popery, &c. to order payment of ministers' stipends, and to learn her grace's will thereanent; and a committee appointed to attend the queen with various articles of complaint.

*June 27.]* 4. Those who were appointed to answer to questions determined that parties proceed not orderly in marriage who neither obtain the consent of the parents, nor make suit to the session of the kirk to concur with them in their proceedings.

5. That no minister ought to enjoy any benefice or stipend belonging to any kirk, unless he remain at the said kirk to discharge his office; and if he be trans-

planted by the Assembly to any other place, and so may not discharge his duty in both, that he be deprived of the one benefice or stipend, providing he be sufficiently answered of the other.

6. John Knox appointed to revise the articles sent from the Assembly to the queen, and to advertise the superintendents of the same, and the faithful in all things necessary that shall happen betwixt and next Assembly.

Several commissions on particular cases appointed.

*June.*] At Edinburgh, a committee appointed to frame articles to be presented to the queen for the suppression of mass and other popish rites and jurisdictions, not only for the subjects' part, but also for the queen's own; and that no bishopric, abbacy, priory, or deanery, provostrie, or any other benefice having many kirks annexed to them, be disposed wholly in time to come to any one; but at least, the kirks thereof be severally disposed to several persons, that every one having charge may serve at his own kirk, according to his vocation.

1565, Dec. 25.] XI. *Eleventh* Assembly held at Edinburgh.—It was ordained,

1. That all persons who have joined themselves to the kirk, and afterwards revolt, offering their children to be baptized by popish priests; or receiving the sacrament of the altar, or appearing in any sort of popish wickedness, after the admonition given by the superintendent of the diocese or principal reformed kirk, shall be excommunicated, if repentance be not offered.

2. It was determined by such as were appointed to decide questions, that no minister receiving sufficient sustentation for preaching may leave his flock or vocation, or the place appointed for the ordinary residence, whatsoever patrocine or oversight he have through corruption of times, or negligence of rulers so to do. Their change of place to be understood with condition of orderly transplantation.

3. That children baptized by a papistical priest shall, when they come to the years of discretion, be instructed in the doctrine of salvation; and what is the corruption

of popery they must publicly damne before they be admitted to the Lord's table.

4. That such as lye in fornication, under promise of marriage, deferring the solemnization, should satisfie publicly in the place of repentance upon the Lord's day before they be married.

5. The queen's answers to the articles sent by the church, and the answers thereto by the kirk, recorded.

6. It is votit and found be the word of God that none may marie his wife's brother or sister's daughter;—such marriage to be null.

7. Ordained that no minister receive the parishioners of another parish to be married, without a testimonial of proclamation in their own parish, and no impediment, under pain of deprivation, &c.

8. Enacted that the superintendent may not suspend a minister, exhorter, or reader, without the assistance of the nearest discreet ministers, and that only to the next Assembly, at which he is to be restored or farther censured, as he deserveth.

9. That in the decision of questions, the superintendent was tied to the advice of the nearest reformed kirk in decerning the excommunication of stubborn offenders, in case there be not a reformed kirk where the offender dwelleth.—Messrs. Knox and Craig, ministers of Edinburgh, appointed to set down form of exercise at public fast, which they did.—*Vide Book of Common Order.*

Dec. 28.] 10. The Assembly gave commission to Mr. John Row to visit kirks, schools, colleges, to remove or suspend ministers, exhorters, readers, in Kyle, Carrick, and Cunninghame, as they shall be found offensive or unable, to eradicate idolatry, &c.

11. Mr. Knox appointed to visit, preach, and plant kirks in the south, where there was not a superintendent, and to remain so long as occasion might suffer.

12. It is not lawful for sic as once put their hand to the plough to leave that heavenly vocation, and return to the profane world, for indigencie or pövertie: lawfully they may leave ane unthankful people, and seek where Jesus Christ his holy évangell may bring forth greater fruit, but lawfully they may never change their vocation.

13. The kirk ought to purge herself of sic notorious malefactors as murderers and convict adulterers, and the order of procedure pointed out.

14. The civil magistrate ought to decern against such as oppress children. Touching the slander, ~~that~~ persons ought to be secluded from participation in the sacraments till they have satisfied the kirk as they shall be commanded.

1566, *June 25.*] XII. The *twelfth* General Assemblie held in Edinburgh. John Erskine of Dun, moderator.

1. In the trial of superintendents, the superintendent of Fife confesses inability to discharge the office, and desired the Assemblie to denude him of it.

2. A committee appointed to set apart at set times to receive in said questions, and to report the decisions to the Assemblie.

3. A petition from Robert, commendator of Holyroodhouse, patron of the kirks of Tranent and St. Cuthbert, to remove the ministers of those parishes, and to admit thereto learned men of his ain palace of Holyroodhouse, refused.

*June 26.*] 4. The Assemblie, in respect of the perils and dangers wherewith the kirk is assaulted, ordered a general fast throughout the whole kingdom.

5. Upon a petition of Paul Methven, it was ordanit that he present himself personally before the Assemblie; and having entered, he prostrate himself before the whole brethren with weeping and howling: A committee appointed to take order in the premises, and whatever they do thereanent, to signifie the same to the superintendent of Lothian, and the session of the kirk of Lothian, and ordain Paul Methven to obey the same. The ordinance to be insert among the acts of Assemblie, for ane remembrance to posterity.

6. Reported by the committee on questions, That a woman whose husband had left her, and gone to other countries, and desiring to marry, ought to ascertain whether her first husband was dead or not, and to report a sufficient testimonial of his death.

7. That a person seeking donation or confirmation of benefices at the pope's kirk, ought not to be admitted to the ministrie.

8. The commissioners appointed for the purpose, reported that Paul Methven, upon two preaching days betwixt the Sundays, sall come to the kirk doore when the second bell rings, clad in sackcloth, bareheadit and barefootit, and there remain quhyll he be brought in to the sermon, and placed in the public spectacle above the people in time of every sermon during the said twa days; and in the next Sunday thereafter, shall compear in like manner, and in the end of the sermon, shall declare signs of his inward repentance to the people, humbly requiring that kirk's forgiveness; quhilk done, he sall be clad in his auin apparell, and receivit in the society of the kirk, as an livelie member thereof. The same order to be observed in Dundee and Jedburgh, always secluding him from any function of the ministry in the church and the communion till the next General Assemblie.

1566, Dec. 25.] XIII. The *thirteenth* General Assemblie.—John Erskine of Dun continued moderator.

1. A number of discussions and proceedings with respect to the teinds, and the supply of provision to ministers.

Dec. 27.] 2. John Knox sought testimonials and permission to go to England to visit his children.

3. A supplication from the General Assemblie to the nobility of the reformed church against renewing of jurisdiction to the Archbishop of St. Andrews, in whose favour a signature had been passed, restoring his ancient jurisdictions of the bishoprick of St. Andrews, with the execution of judgment, donation of benefices, &c.

4. Proceedings relative to the translation of the Zurich confession of faith, which was ordered to be printed.

5. A declaration that parties who are separated for adulterie shall not join themselves in marriage, and the Assemblie ordain superintendence of ministers, that none join any partie separated for adulterie in marriage, under pain of removing from the ministrie.

*Dec. 28.]* 6. Bishops, abbots, priors, and other persons beneficed, being of the kirk, who receive teinds, and await not upon the feeding of the flock committed to their cure, ordained to be summoned, and to compare at the next General Assemblie.

7. A request by the superintendent of Angus to be exonerate of his calling, in respect of weakness and debility of body; but he was permitted to appoint some of the best qualified within his bounds to visit when he found himself unable.

8. It was ordained that supplication be made to the Lords of Secret Council, concerning the commission and jurisdiction supposed to be granted to the Bishop of St. Andrews (John Hamilton), to the effect their honors may stay the same, in respect that the causes, for the most part, judged by his authority pertained to the true kirk.

9. The Confession, commonly called the Latter Confession of Helvetia, was approved by this Assembly, but with the exception against some holidays; and they ordained the translation made by Mr. Robert Pont to be printed, together with the epistles sent by the Assembly approving the same, providing a note be put on the margin of the said confession where mention is made of some holidays.

10. It was resolved unanimously that tithes appertain properly to the kirk, and should be applied to the sustentation of the ministers, and the poor, and the maintenance of schools; and every one admonished to claim their rights therefrom, and to require all possessors of tithes to pay the same only to the kirk for these purposes, and to inhibit all others to intromit therewith, under the pain of censures. (Never put in practice.)

11. Determined that communicants of the kirk, being witnesses of popish baptisms, be censured.

*1567, June 25.]* XIV. The *fourteenth* General Assemblie held at Edinburgh, within the Nether Tolbooth. —George Buchanan, principal of St. Leonard's College, moderator.

1. Letters ordered to be sent to the nobility upon

various matters interesting to the church, and questions answered upon points of discipline.

2. It was ordained that some ministers should be sent to some earles, lords, barons, to require their presence at the next Assemblie, to settle and establish some course for the continuance of religion, and utter removing of all superstition, idolatrie, and monuments thereof. An Assembly ordered to be held 20th July.

1567, July 21.] XV. The *fifteenth* General Assemblie. Various proceedings held relative to the stipends of ministers, and articles regarding the establishment, signed by the noblemen, barons, and others. At this Assemblie the noblemen, barons, and others convened agreed and condescended that the act already made concerning the thirds of the benefices, specially for sustentation of the ministrie, may be duely put to execution, according to the book of appointment of ministers' stipends, as well for them that are to be placed as for those sufficiently sustained with the same, to the relief of their present necessitie till a perfect order may be taken and established concerning the full distribution of the patrimonie of the kirk, according to God's word. *Item*, How soon a lawful parliament may be had, or that the occasion may otherwayes well serve, they shall labour and press to the uttermost, that the true kirk within this realme, professing the true religion, shall be put in full liberty of the patrimonie of the kirk. They condescended that all kings, princes, and magistrates, which shall happen to reigne hereafter, and to bear rule within this realme, shall, at their first entrie, before they be crowned and inaugurated, make their faithful promise to the true kirk; that they shall maintaine and defend, and by all lawful means set forward, the true religion, presently professed and established within this realme, even as they are obliged and astricted by the law of God; as they crave obedience of their subjects, so the bond and contract shall be mutual in all time coming between the prince and God, and between the prince and the faithful people, according to the word of God. *Item*, They con-

descended to convene themselves together, with their power and forces, to root out and subvert all monuments of idolatry, and specially the masse, without exception of place or person, and to set up and establish the true religion throughout the whole realme.

1567. Dec. 25.] XVI. *Sixteenth* General Assembly.  
—John Row, moderator.

1. The superintendent of Fife and the Bishop of Orkney complained of, the former for not teaching in the kirks, and the latter for the same offence, and acting as a judge in the Court of Session, and because he gave benefices to Sir Francis Bothwell, a papist; placed a minister, and solemnized the marriage of the queen and the Earl of Bothwell. The Bishop of Galloway accused of not visiting the kirks within his charge, of haunting the court, of applying to be a member of the Session and Privy Council, which cannot agree with the office of a pastor or bishop. Three lawyers appointed procurators, to defend and pursue all actions pertaining to the kirk; a solicitor is named and a comptroller, for keeping the rentals of the thirds of benefices and assumptions thereof.

2. The Bishop of Galloway granted that he had offended in all that was laid to his charge; but his commission was continued till next Assembly.

3. Anent the marriage of the queen with the Earl of Bothwell, by Adam, callit Bishop of Orkney, the haill kirk finds, that he transgressed the act of the kirk in marrying the divorcit adulterer, and therefore deprives him of all function of the ministry, conform to the tenor of the act made thereupon, aye and quhill the kirk is satisfied of the slander committed by him.

4. The same day, John Craig was accused of proclaiming the banns betwixt the queen and the Earl of Bothwell, who gave in written defences.

5. Lady Argyll complained of for having been present and assisting at the baptism of the king in a papistical manner, who, being present, admitted the fact, and submitted herself to the discretion of the kirk. The kirk ordains the said lady to make public repentance in the



Chappel Royall of Striveling, upon ane Sunday in time of preaching.

6. A committee appointed to choose collectors for uplifting thirds of benefices in every province, and to give them instructions—inserted in the record.

7. Pastoral letter against the queen and her adherents by the superintendent of Lothian.\*

1568, *July*.] XVII. The *seventeenth* General Assembly held at Edinburgh in the beginning of this month.

1. The superintendents of Fife, Galloway, Angus, and Lothian, severally called to account for their conduct.

\* Abridged chiefly from Keith, and collated with Calderwood, and the Book of the Kirk. Keith's ample, but very confused extracts, and with the proceedings of this Assembly.

In the parliament holden at Edinburgh the 15th of December, the nomination and constituting James Earle of Murray regent during the king's minority, was ratified and confirmed. The Confession of Faith was again ratified. Such as opposed the Confession of Faith, or refused to participate of the sacraments, as they were then ministered, were declared to be no members of the kirk within this realm. It was ordained that all kings, princes, and magistrates shall at the time of their coronation, or receipt of their princely authority, take their great oath in the presence of God, that they shall maintain the true religion of Christ, the preaching of his holy word, and due and right ministration of the sacraments then received—shall abolish and withstand all false religion contrary to the same—shall keep inviolate the rights, rents, and privileges of the crowne—shall root out all heretics and enemies to the true worship of God, that shall be convicted of the foressaid crimes, &c. *Item*, That the third of the whole benefices in time coming shall be payed first to the ministers, notwithstanding any discharge given by the queen, to whatsoever person or persons, of the thirds, or any part thereof, till the kirk come to full possession of her own proper patrimonies, which is the tithes, providing the collectors for ministers make yearly account in the exchequer of their intromissions, that the superplus may be applied to the king's use. *Item*, That laick patrons present qualified persons to the superintendent or commissioner of the kirks, and if the superintendent or commissioner refuse to admit the person presented, it shall be lawful to the patron to appeal to the superintendent and ministers of that province where the benefice lyeth; if they refuse, it shall be leasume for him to appeal to the General Assemblie, where the cause being decided, it shall take an end, as they declare and decerne. Here ye see, *first*, that the meeting of ministers, in provincial and general assemblies, is acknowledged and allowed by the estates in Parliament. *Next*, That the patron might appeal from the superintendent to the superintendent and minister of the province, that is, the synod. *Thirdly*, That the patron might not appeal from the General Assemblie.—*Calderwood*, p. 43.

The Bishop of Orkney restored to the ministry ; but ordered to confess his offence in the kirk of Holyrood House for solemnizing marriage betwixt the queen and Earl Bothwell.

2. A committee appointed to revise orders of excommunication.

3. Ordained that none have place nor power to vote in General Assemblies except superintendents, commissioners appointed for visiting kirks, ministers, commissioners of burghs and shires, together with the commissioners of universities. Ministers and commissioners of shires shall be chosen at the synodal convention of diocies, with consent of the rest of the ministers and gentlemen convened thereat. Commissioners of burghs shall be appointed by the council and kirks of their own towns. None shall be admitted without sufficient commission in write. Ministers and other commissioners shall be changed from Assembly to Assembly.\*

4. Readers ordained to abstain from administration of the sacraments.

1569, July 20.] XVIII. The *eighteenth* General Assembly held at Edinburgh.

1. The superintendent of Argyle rebuked for accepting the bishopric of the isles, without forewarning the Assembly, and for riding and assisting of the parliament held by the queen after the murder of the king.

2. A decret and sentence given by the regent and his council, and by the superintendent of Angus and Mearns, with the ministers and others; commissioners within the sheriffdoms of Aberdeen and Banff, depriving the principal and some of the regents of Aberdeen, read and approved.

1570, March 1.] XIX. The *nineteenth* General Assembly holden at Edinburgh.

A committee appointed to consult on the order of proceeding in matters to be treated in General Assemblies,

\* *Vide* alterations on this law in acts 1597, 1694, and 1712.

which they did, and it was appointed by the Assembly as followeth :—

1. That the moderator of the last Assembly should, after prayer, have an exhortation in the Assembly next following, which being ended, the Assembly shall proceed to the choosing of a new moderator, and so forth from Assembly to Assembly.

2. Next shall follow the trial of superintendents and commissioners for planting kirks, with the accusations and complaints, if there be any, of superintendents, commissioners, or any others, upon ministers.

3. The penitents remitted to their superintendents or ministers at the preceding Assembly shall be received according to the order appointed at the last Assembly; and injunctions shall be given to other notorious criminal persons that either are summoned by the superintendent or commissioner of kirks, or of their own accord, moved with hatred of their crime, present themselves to the General Assembly.

4. Such things as were not decided at the preceding Assembly, and were remitted to the next, or referred thereto by the Lords of Session and auditors of the Exchequer, or otherways, shall be decided and decerned upon.

5. Collectors shall be called to give in the accounts of their diligence, &c.

6. The complaints of districts for want of superintendents shall be heard and provided for according to the necessity of the case; and likewise appellations interponed from the synodal assemblies to the General, shall be received.

7. Questions prepared in the first and second days of Assembly shall be decided by such as shall be appointed to that end.

8. All bills and complaints shall be read and answered.

Adam Bothwell, bishop of Orkney, charged with simonaical practices, &c., and a committee appointed to try the sufficiency of his answers.

1570, July.] XX. The *twentieth* General Assembly held at Edinburgh.

1. It was ordained that all who hereafter shall accept the ministry, shall, when admitted, protest solemnly that they shall never desert their vocation at any time thereafter, under the pain of infamy and perjury.

2. It was ordained that ministers examine all children at nine years of age, at twelve, and at fourteen, as to their religious knowledge, and keep a roll of their names.

1571, March.] XXI. The *twenty-first* General Assembly held at Edinburgh.

1. It was ordained that all heinous offenders compare before synodal assemblies to take their injunctions, conform to the order read before General Assemblies.

2. That all superintendents and commissioners to plant kirks, shall present their books to the Assemblies. And

3. That all questions be prepared hereafter in synodal conventions, there to receive their solutions: and if any question happen too hard for them, the superintendents and commissioners of kirks shall propound the said hard questions to the General Assembly, and that the same order be observed in complaints, &c.

4. In the decision of questions, the power of superintendents is limited by the Book of Discipline and former acts of Assemblies.

5. Touching jurisdiction ecclesiastical, a committee was appointed to conceive the heads and points pertaining to the same, and present them to the Assembly to be considered. Commissioners appointed to submit them to the regent were instructed to crave that his grace and council approve the jurisdiction, conform to the following heads:—

1. That the kirk have the judgment of true and false religion, of doctrine, heresies, and such like, annexed to the preaching of the word and ministration of the sacraments. 2. Election, examination, and admission of them that are to be admitted to the ministry, or other functions of the kirk, charge of souls, and ecclesiastical benefices, suspension and deprivation of them from the same for

lawful causes. 3. All things concerning the discipline of the kirk which stand in correction of manners, admonitions, excommunication, and receiving the repentance. 4. The judgment of ecclesiastical matters debated between persons that are of the kirk, and specially among those that are constitute in the ministry, as well concerning beneficial causes as others. 5. Jurisdiction to proceed by admonitions to the process of excommunication, if need require, against those that rob the kirk of the patrimony belonging to the ministry, or otherwise intrude with the same unjustly, whereby the ministry is in danger to decay by occasion of the poverty of ministers. 6. Because the conjunction of marriage pertaineth to the ministry, the causes of adherence and divorcement ought also to pertain to them, as naturally annexed thereto. It was ordained that all marriages be made solemnly in the face of a congregation, according to the public order established, and that no ministers solemnize marriages of any persons of other congregations than their own.

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1572, *January* 12.] An extraordinary Convention met at Leith, consisting of superintendents, commissioners, ministers, commissioners from towns and kirks, and along with them the chancellor, treasurer, secretary, keeper of the rolls, justice-clerk, &c. After deliberation, the following regulations were adopted by the Convention, and approved of by the Regent 1st. February 1571-2:—

It is thought good, in consideration of the present state, 1. That the names of the archbishops and bishops be not allowed on the bounds of the dioceses confounded, but that they continue in time coming as they did before the reformation of religion, at least till the king's majesty's majority, or consent of parliament. 2. That the archbishoprics and bishoprics vacant should be conferred on men endowed as far as may be with the qualities specified in the examples of Paul to Timothy and Titus. 3. That to all archbishoprics and bishoprics that should become vacant, qualified persons should be presented within a year and day after the vacancy took

place, and those accounted to be thirty years of age at the least. 4. That the spiritual jurisdiction should be exercised by the bishops in their dioceses. 5. That abbots, priors, and inferior prelates presented to benefices, should be tried as to their qualification and their aptness to give voice in parliament, by the bishop or superintendent of the bounds, and upon their collation, should be admitted to the benefice, but not otherwise. 6. That the elections of persons presented to bishoprics, should be made by the chapters of the cathedral churches; and because the chapters of divers churches were possessed by men provided before his majesty's coronation, who bore no office in the church, that a particular nomination of ministers should be made in every diocese to supply their rooms until the benefice shall fall void. 7. That all benefices, with cure, under prelacies, should be conferred on actual ministers, and on no others. 8. That ministers should receive ordination from the bishop of the diocese, and where no bishop was yet placed, from the superintendent of the bounds. 9. That the bishops and superintendents, at the ordination of ministers, should exact of them an oath for acknowledging his majesty's authority, and for obedience to their ordinary in all things.

1572, *March 6.*] XXII. The General Assembly appointed to be held this day at St. Andrews, was convened, and a committee appointed to report on the articles adopted by the Convention of Leith.

1572, *August 6.*] XXIII. A General Assembly held at Perth. In the third session, the brethren appointed presented to the Assembly a protestation, with their opinion, requiring the Assembly to adhere to the same, the tenor whereof followeth.

“ For sameikle as in the Assemblie holden in Leith, upon Januar last, certain commissioners were appointed to travel with the nobility and their commissioners, to reason and conclude upon diverse articles and heads, then thought good to be conferred upon; according to which

commission, they proceeded at diverse diets and conventions, and finally agreed, for that time, upon the said heads and articles, as the same produced in this Assemblée proports; in which, being considered and read, are found certain names, such as archbishop, dean, archdeacon, chancellor, chapter, which names are thought slanderous and offensive to the ears of many of the brethren, appearing to sound to papistrie; therefore the whole Assemblée, in ane voice, as well those that were in commission at Leith as others, solemnlie protest, that they mean not, by using any such names, to ratifie or consent and agree to any kinde of papistrie or superstition, and wish rather the names to be changed into other names that are not scandalous and offensive, and in like manner protest that the said heads and articles agreed upon, be only received as an interim, till further and more perfect order may be obtained at the hands of the king's majestie's regent and nobilitie, for the which they will press as occasion shall serve;—unto the which protestation the whole assemblée convened, in ane voice adhered."

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The constitution of the church being altered by the unauthorized resolutions of the Convention of Leith, and episcopacy established in place of that by presbyters and superintendents, under the control of the General Assemblies, it seems unnecessary to continue the proceedings of the episcopal church, or to advert to the acts of its Assemblies, which are not held authoritative by the presbyterian church. In 1592, however, presbyterianism was again restored. Episcopacy being abolished, church government was established, by kirk-sessions, presbyteries, synods, and general assemblies. The Acts of Assembly, therefore, from that time, shall be resumed till 1606, when episcopacy was re-introduced. It is not intended to encumber this work with details of proceedings by the church during the periods of its equivocal existence, or to embrace any of its statutes which are of an apocry-

phal description, as regards their authority in the presbyterian church. The struggles and controversies which occurred betwixt the episcopalian and presbyterian partisans are properly the subjects for history, and not of a work of this description.

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1593, *April 24.*] XXIV. A General Assembly was convened at Dundee—Mr. David Lindsay, moderator.

1. The Assembly sent a deputation to the king, with articles, wherein they craved that jesuits and other popish priests, be declared culpable of treason, and lese majesty, and that the laws be enforced against them.

2. It also remonstrated against the erection of tithes into temporalities, to the prejudice of the kirk.

3. The act of parliament 1592, concerning the ratification of the presbyterian church government, was laid before the Assembly, by order of his majesty, with a message as to the appointment of General Assemblies, &c.

4. The Assembly answered that Assemblies should be called according to the tenor of the act of parliament, and ordained that no minister within this realm utter from the pulpit any rash or irreverent speeches against his majesty, or his counsel, or their proceedings, but that all their public admonitions proceed upon just and necessary causes, and sufficient warrant, in all fear, love, and reverence, under pain of deposition. That the brethren to be chosen by his majesty be placed and admitted by the presbytery, &c.

5. The names and number of presbyteries were given up as follows: One presbytery in Zetland, viz. Tingwall; in Orkney, Kirkwall; in Caithness, Thurso; in Sutherland, Dornoch; in Ross, two, Tain and Channonry; in Murray, four, Inverness, Forres, Elgin, and Ruthwin; in Aberdeen, five, Banff, Deer, Innerurie, Aberdeen, Kincardine; in Mearns, one, Cowie; in Angus, five, Brechin, Arbroath, Migel, Dundee; in Dunkeldon,



one, viz. Dunkeldon; in Perth, two, St. Johnston and Dunblane; in Fife, four, St. Andrews, Couper, Dunfermline, Kirkaldie; in Stirling, one; in Linlithgow, one; in Lothian, four, Edinburgh, Dalkeith, Haddington, Dunbar; in Tweeddale, Peebles; in the Merse, two, Chirnside and Dunse; in Teviotdale, two, Jedburgh and Melrose; in Nithsdale, one, Dumfries; in Galloway, two, Kirkcudbright, Wigton; in the sheriffdom of Ayr, two, viz. Ayr and Irvine; in Ranthrow, Paisley; in Lennoxshire, Dumbarton; in Clydsdale, three, Glasgow, Hamilton, and Lanark.

6. The Assembly gave commission to certain brethren to visit, and try the doctrine, life, conversation, diligence, and fidelity of the pastors within the said presbyteries; to try if there be any non-residents who have dilapidated their benefices, &c.

7. For as much as in synodal assemblies the books of particular presbyteries are tried and visited, it is concluded that in time coming the books of the synodal assemblies be directed by the synods to the General Assembly, to be sighted and considered, for understanding the better of their proceedings, under the pain of the censures of the kirk.

8. The Assembly ordaineth that no disposition of rents and livings of colleges be taken, or other title be made, without the advice and consent of the General Assembly, under the pain of deposition of the persons doing in the contrair.

9. It was ordained that where ministers, for lack of manses, are non-residents, or where the manses are ruinous, they repair and build the same, upon their own expenses, to be refunded to them or their heirs.

10. It is concluded that where any private controversy shall arise betwixt two of the brethren, they shall submit the same to others of the ministry.

11. The General Assembly dischargeth every christian within the kirk from repairing to any of the King of Spain's dominions, under the pain of incurring censures and excommunication.

1594, *May 7.*] XXV. A General Assembly held at Edinburgh—Andrew Melvill, moderator.

1. A sentence of excommunication pronounced by the synod of Fife against Huntly, and other apostate lords, was ratified by this Assembly; and it was ordained that the same be intimate at all the churches within the realm.

2. It was ordained that the act made in January 1592, and the band at Aberdeen be registered in the books of Assembly.

3. A deputation appointed to present a statement to the king, of the dangers arising from the impunity of papists, enemies of the crown and liberty of the country. The articles and answers engrossed.

4. Lord Home reconciled to the kirk. Touching the horrible superstition used in Garioch, and divers parts of the country, in not labouring a parcel of ground, dedicated to the devil, under the name of the "good man's croft,"—ordered that application be made for an act of parliament to cause labour the same.

1595, *June 24.*] XXVI. A General Assembly at Montrose—James Nicholson, moderator.

1. Articles presented by the king's commissioners, that persons convicted of treasonable practices be excommunicated, &c., considered and answered.

2. Touching the acts of Assembly, the brethren ordained that the same be sighted, and the special acts concerning the practice of the kirk, be extracted and joined with the Book of Discipline, to be published either in writ or print, that none pretend ignorance. (Never carried into effect.)

3. Commission given to James Melvine and others to convene, the 5th day of January next to come, to try and consider the doctrine, life, and diligence of the masters of the colleges, the discipline and order used by them; to reform, so far as they are able—such things as they cannot take order with being remitted to the next Assembly; and to report to the next Assembly what they effectuate.

4. A commission given to some brethren, to inquire who, since the act 1578, have set their benefices, with diminution

tion of the rental, or conversion of victual in silver, and to proceed against them with the sentence of deposition, &c.

5. A commission ordained to convene at Edinburgh, to set down a constant plat.

6. Presbyteries ordained to proceed to the sentence of excommunication against papists within their bounds.

7. It was ordained that the professors of the truth abstaining from the communion, by reason of deadly feuds, be charged to participate, &c.

8. It was ordained that the reseters of excommunicate persons be proceeded against by presbyteries, under pain of public rebuke in face of the Assembly, and under pain of deposition of the minister through whose default the ordinance is not execute.

9. An act made in favor of ministers—that if the minister decease after Michaelmas, his executors shall have that year's rent and the half of the next.

10. It was ordained that presbyteries take order for visitation and reformation of grammar schools in towns within their bounds, and deal with the magistrates for augmentation of their stipends.

11. An act touching marriages to be communicated to the commissaries of Edinburgh.

1596, *March 24.*] XXVII. A General Assembly held at Edinburgh. A humiliation and fast appointed, in the prospect of a Spanish invasion, &c.

*March 25.*] 1. The king himself came to the Assembly, and urged a contribution to be lifted through the whole realm, when need should require, to withstand the Spaniard.

2. Discussion betwixt the King and Andrew Melville about the forfeiture of the estates of the popish lords who had been banished.

3. Overtures proposed for resisting of the enemies of religion and of the state, as well foreign as intestine.

4. Advice of the brethren deputed for pruning the corruptions of the church, and their remedies—approved by the General Assembly.\*

\* *Vide particulars, Calderwood, p. 314, et seq.*

*March 30.]* 1. A public humiliation and covenant, by the Assembly, held in the Little Kirk of Edinburgh; and all the synods of the church ordained to hold similar solemnities.\*

2. A committee appointed to confer with their majesties persons and houses.\*

3. A commission appointed for visitation of the whole country, planting kirks, &c.

4. Commissioners of plat reported articles, which were partly approved.

5. It was ordained that the act made at Dundee concerning the decision of controversies among ministers be extended also to readers.

6. Ordained that an article be presented to the king for establishing an act annulling all tacks set by ministers, without consent of the Assembly.

*Dec.]* 7. The king called, by a written warrant, a convention of estates and a General Assembly, to treat and resolve anent all questions standing in controversy concerning the policy and external government of the church;† and his majesty circulated through the church questions to be resolved by the Convention and Assembly, which were called to meet at Perth in February 1597.

*1597, February 28.]* XXVIII. General Assembly held at Perth. There was great debate about this Assembly, Whether it was lawful or not, being convened by the king: Eight presbyteries refused to hold it a lawful Assembly; eleven approved of it under the name of extraordinary. The king required the Assembly to meet with the estates, to confer upon the subjects to be submitted to them; and this was finally done, under protestation that the meeting with the estates should not be holden for the Assembly of the Kirk.

*March 4.]* After conferences and controversies, the following articles were agreed to, 1. "That it is lawful to his

\* *Vide particulars, Calderwood, p. 314, et seq.*

† In the course of this year there were violent controversies betwixt the clergy and the king, in consequence of the popish exiles being permitted to return.

majesty, by himself or his commissioners, or to the pastors, to propose, in a General Assembly, whatsoever point his majesty or they desire to be resolved or reformed in matters of external government, alterable according to circumstances, provided it be done in right time or place; "*animo edificandi non tentandi*." 2. That no minister shall reprove his majesty's laws, acts, statutes, and ordinances, till such time as he has, by the advice of his presbytery, or by that of the General Assembly, complained and sought remedy for the same, from his majesty, and made report of his majesty's answer. 3. That no man's name shall be mentioned in the pulpit, to his rebuke; except the fault be notorious and public, which notoriety is thus defined: If the person be fugitive, convicted by an assize, excommunicated, contumacious after citation or lawful admonition; nor yet shall any man be *vively* described by any other circumstances than public vices always to be condemned. 4. That no minister shall use application wherein he hath not a principal respect to the edifying of his own flock and audience. 5. That every presbytery shall take diligent account of the pastor's doctrine, and that he keep himself within the bounds of the word. 6. That the determination of the sixth article, which was directed against the practice of summary excommunication, shall be delayed till next Assembly, but that in the mean time all such excommunication shall be discontinued. 7. That the seventh article, requiring that the censures of sessions, presbyteries, and synods, should not extend to persons beyond the bounds of their jurisdiction, be also referred to the subsequent Assembly. 8. That every summons shall specify the cause and crime, and none be given out *super inquirendis*. 9. That no conventions shall be amongst pastors without his majesty's knowledge and consent, except sessions, presbyteries, and synods, meetings for visitation of churches, admission or deprivation of ministers, taking up of deadly feuds, and the like, which have not been found fault with by his majesty. 10. That in all principal towns, the ministers shall not be chosen without the consent of his majesty, and that of the flock. 11. That all matters

relating to the remaining questions, published by his majesty, shall be suspended, and neither condemned nor rebuked in the pulpit, or in judicatories, till they be decided in the General Assembly; and that no matter importing slander, and prejudging his majesty's authority, shall come before them, ecclesiastical causes only excepted. 12. That for treating upon the remaining questions of his majesty, a certain number of the brethren are chosen, who are to report their opinion and advice to the next Assembly, referring the time and place of their meeting to his majesty. The last resolution was, that a commission should be given to certain ministers in the districts of Scotland in which the popish earls resided, to confer with them, and to press their agreement to certain proposals, having for their object the abjuration of popery by these noblemen, their not associating with priests and jesuits, and their acknowledgment of the church of Scotland as a true church."

*May 10.] XXIX.* An Assembly held at Dundee, in obedience to an order of the king, for carrying forward his schemes of ecclesiastical order and discipline.

The proceedings held at Perth were ratified; and it was resolved that his majesty's approbation should be solicited to any acts affecting the state of his highness, or of his subjects; and a few commissioners chosen, who were to assemble when summoned by the king, and to take trial of whatever tended to preserve harmony between him and the church.

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From the time that the Assembly of Perth was held (1597), the presbyterian constitution of the church, as established in 1592, and the legitimate authority of its general assemblies and other judicatories, may be regarded as subverted by the interferences of King James VI. On 19th December 1597, soon after the Assemblies of Perth and Dundee, he brought his projects under the considera-

tion of parliament, when an act was passed, ordaining that such pastors and ministers as his majesty should at any time please to invest with the office, place, and dignity of bishop, abbot, or other prelate, should in all time hereafter have vote in parliament, in the same way as any prelate was accustomed to have, declaring that all bishoprics presently vacant, or which might afterwards become vacant, should be given by his majesty to actual preachers and ministers. This was a restoration of episcopacy which was rendered effectual by another act of parliament in 1606, whereby bishops were reponed and restored to their ancient and accustomed honours, dignities, prerogatives, privileges, livings, lands, teinds, rents, &c.; and, by a subsequent act in 1612, it was enacted that the induction of General Assemblies of the kirk should belong to his majesty, by the prerogative of his royal crown. Henceforward, therefore, and indeed from the Assembly at Perth, the church in Scotland must be regarded as episcopalian. All the Assemblies from that time until the year 1638, were under the control of the king, and its acts little else than a record of his edicts. From 10th December 1602 to 16th July 1608, indeed, there were no Assemblies; and, regarding the proceedings of all the Assemblies held subsequently to 1607, as invalidated by the acts of the Glasgow Assembly in 1638, and finally by the act of parliament 1640, abolishing episcopacy, the acts of which an epitome is now presented, shall be confined to those which belong to the purely presbyterian period of its history.

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1638. 1. The six pretended Assemblies—at Linlithgow, 1606 and 1608; Aberdeen, 1616; St. Andrews, 1617; and Perth, 1618, are condemned as unlawful, and their acts annulled; and the reasons thereof set down at large in *Act Sess. 12, Dec. 4, 1638*.

2. That all acts made anent keeping Assemblies be observed.—*Act Sess. 23, 24, Dec. 17, 18, Ass. Act 9.*

3. All commissioners from presbyteries, burghs, and universities, ordained to get, under the clerk's hand, an *index* of the acts, till the acts themselves be extracted, and thereafter to get the full extract of the whole general acts, to be inserted in their presbytery books, whereby all their proceedings may be regulated in time coming; and recommended to every kirk-session to obtain an extract of these acts.—*Act Sess. 26, Dec. 20.* This innovated by the following acts.

1639. 4. An overture that some commissioners be appointed to visit and peruse the whole acts of General Assemblies, and to mark such acts as are for the use of the kirk in general, and to extract the same out of the registers, to the effect that after they are tried they may be printed, according to the old act of Assembly at Edinburgh, March 7, 1574, Sess. 9, is allowed and remitted to the care of the presbytery of Edinburgh, and they to report to the next Assembly.—*Act Sess. 22, Aug. 29, Art. 1.*

1645. Recommended to every parish and session to buy the printed acts of the Assembly; and presbyteries are ordained to crave account thereof from all ministers, before their going to provincial assemblies; and appointed, that every provincial assembly crave account from presbyteries in their trials, if every session be so provided, and that they try the diligence of presbyteries and ministers used for that effect.—*Act Sess. 18, Feb. 12.*

1607. Enacted, That before any General Assembly of this church pass any acts which are to be binding rules and constitutions of the church, these acts be first proposed as overtures to the Assembly; and being passed by them as such, be remitted to the consideration of the several presbyteries of the church, and their opinions and consent reported by their commissioners to the next General Assembly following, who may then pass them into acts, if the general sense of the church, thus procured, agree thereto.—*Act 9.*

1700. Enacted, That when any thing of public concern and great weight is proposed to the Assembly, to be passed as overtures or acts, for a standing rule to the church, after the first reading, it be delayed till the



next day of the Assembly's sitting, and lie on the table, to be seen and considered by all the members; and likewise, when any thing is passed as overtures by the Assembly, that all and every presbytery read them publicly in their presbyterial meeting once before the first meeting of the synod next after the Assembly, and consider them; and that this be recorded in their presbytery book, and inquired into by their synods in visiting presbytery books. And 'tis recommended to all presbyteries to send in an account of their judgment and opinion thereanent, with their commissioners to the Assembly, in writ, but as briefly as may be, and the overtures to be printed after the acts. And 'tis appointed that each minister and kirk-session have a copy of all the printed acts of the Assembly; and that inquiry be made into this at presbyterial and synodical censures, and their diligence recorded.—*Act 16.*

1705. Recommended to the several presbyteries and kirk-sessions, who want the acts of former Assemblies, to furnish themselves therewith; and the agent for the kirk is appointed, in all time coming, after every Assembly, as soon as the acts thereof shall be printed, to transmit as many copies of the same to every presbytery within the kingdom as will serve them, and each parish within their bounds; and both presbyteries and sessions are enjoined, at their first meeting, after receiving the said acts, to cause read the same, at least so many of them as are of public concern, and which relate to themselves, in order to their observing thereof; and all this to be upon the charges of the several presbyteries and sessions: And synods are enjoined to inquire at presbyteries how this act is observed, and cause mark their diligence thereanent in their books: And the commission is appointed to use their endeavours that this act be made effectual, and duly observed by those concerned.—*Act 18.*

1736. Enacted, That no acts rescissory of any standing acts of the General Assembly be passed, until such acts rescissory be first transmitted to presbyteries, and their general opinion had for rescinding the same.—*Act 8.*

1773. Act. Sess. 18, Feb. 12, Ass. 1645; Act 16, Ass. 1700; and Act 18, Ass. 1705, are revived in Act 7.

1779. Resolved, That the Assembly take two hundred copies of the printed acts annually, viz. one for the moderator, and one for the clerk of each presbytery, one for each synod, and one for each university, and one for the faculty of advocates: And ordered, That the acts be left at the society's hall, and presbyteries and synods send for their copies on or before the 1st day of December annually, certifying if they do not send for them on or before that day, they will be sent by post at their expense. And farther, when they do send for their copies, they shall send a receipt therefor, that the clerks of assembly may have evidence of their being delivered.—Act 12.

### ADDRESSES.

1698. Address by the Assembly to King William, upon the occasion of the peace concluded at Reswick, betwixt his majesty and his allies, and the French king.—Act 4.

1703. Address by the Assembly to Queen Anne, representing the church's grievances from the extraordinary growth of popery, the disorders of some of the episcopal clergy, and the abounding of immorality and profaneness, and begging redress.—Act 8.

1707. Address by the Assembly to the queen, humbly thanking her for her tender care of this church, and for her gracious answer to the address of their brethren, the distressed and persecuted protestants of France.—Act 18.

1708. Another address, congratulating her majesty upon defeating the late attempt of an invasion from France in favour of the Pretender.—Act 5.

1712. The Assembly address the queen, begging that she would give countenance to such requests as might be laid before her, by their commission, for a redress of the church's grievances, and interpose her royal authority for that end.—Act 18.

1714. The Assembly, in an address, congratulate her majesty upon her recovery from a late indisposition.—*Act 4.*

The Assembly, by an address, lay before her majesty the extraordinary growth of popery, and insolence of priests and papists, by avowedly keeping, and resorting to, chapels and mass-meetings, and also the disorders of some of the episcopal clergy. They vindicate themselves from the aspersions of disloyalty cast upon them by those who are disaffected to the protestant succession and church establishment; and they regret the abounding of error and profanity; and humbly entreat for a vigorous execution of the laws against popery and profaneness; and that all practices and attempts against religion and the church establishment might be prevented and punished.—*Act 12.*

1716. The Assembly, in an address, congratulate his Majesty King George (I.) in most affectionate terms, upon the suppression of the rebellion.—*Act 6.*

1722. The Assembly present an humble address to the king respecting the growth of popery, with a large memorial of particular instances of the increase of that evil.—*Act 6.*

1723. The Assembly, in another address, declare their detestation of the execrable conspiracy against the king's person and government, approve of an address by the commission, and express their joy that it had pleased God to assist in making a seasonable discovery of the design.—*Act 4.*

1727. The Assembly address the king, giving him a particular representation of grievances from papists, and the irregular practices of the nonjuror and prelatical clergy.—*Act 11.*

1728. The Assembly, in an humble address to the king (George II.) express their sorrow for the death of the late king; and declare their joy and satisfaction on the present king's quiet and peaceable accession to the throne.—*Act 4.*

1734. Another address, congratulating the king upon

the marriage of the Princess Royal with his serene highness the Prince of Orange.—*Act 4.*

1736. Another congratulatory address to his majesty, on occasion of the marriage of the Prince of Wales with her serene highness Augusta of Saxe Gotha.—*Act 4.*

1736. The commissioners appointed by the General Assembly address the king for a repeal of the act of the 10th of Queen Anne, establishing the right of patrons to present to vacant churches, and a restoration of their privileges mentioned in the act of union.—*Act 6.*

1741. An address to the king on the success of his arms against the Spaniards; and particularly on the victory at Carthagena.—*Act 7.*

1744. The Assembly, in an address, testify their abhorrence of the intended invasion of his majesty's kingdoms; declare their loyalty, and their resolution to support his government, the great bulwark, under God, of their religion, law, and liberty.—*Act 8.*

1746. In another address, the General Assembly declare their detestation of the unnatural rebellion; and congratulate his majesty on the success of his arms over the rebels.—*Act 5.*

1749. The Assembly, in another address, congratulate the king on the return of national tranquillity; they express their regard to his person and government, and testify their satisfaction in the success of his councils and arms, which, through God, secured to them the undisturbed exercise of the best religion, and the full enjoyment of a British constitution.—*Act 8.*

1750. Another address, congratulating the king on the birth of a prince in his house, the son of their royal highnesses the Prince and Princess of Wales.—*Act 7.*

1756. The Assembly address the king on the occasion of his declaring war against France, giving him the assurance of the loyalty of the people of Scotland.—*Act 4.*

1760. An address in which the General Assembly congratulate the king on the signal successes with which God hath blessed his arms since their last meeting.—*Act 4.*

1761. The Assembly, in affectionate terms, address his

majesty (George III.) expressing their sorrow for the death of his royal grandfather; and declaring their satisfaction on his quiet and peaceable accession to the throne of his fathers.—*Act 4.*

1762. The General Assembly, in an address, congratulate the king on his nuptials with a princess of illustrious birth and eminent virtues; And in one to the queen, congratulate her on her arrival in these kingdoms, and on her marriage with a monarch, who, by his virtues and government, has acquired the affection and confidence of his subjects: And in another, assure the Princess of Wales of their sincere joy at the union of the king, her son, with a princess of exalted birth and amiable endowments.—*Acts 6, 7, 8.*

1763. The Assembly address the king, expressing their warm congratulations on the re-establishment of peace, after a long, successful, yet burdensome war; and present to their majesties their humble congratulations on the birth of the Prince of Wales.—*Acts 4, 5.*

1769. The Assembly again address the king, expressing their concern for the spirit of dissension which then disturbed the seat of government, and alarmed the remotest parts of the kingdom; and declaring their sincere attachment to his person and family.—*Act 4.*

1770. The Assembly, in an affectionate address, congratulate the king on the birth of a princess.—*Act 4.*

1773. In another declare their joy on the birth of a prince.—*Act 4.* 1774. And in another on the birth of a third prince.—*Act 4.*

1775. In a warm address, the Assembly present their sincere condolence on the untimely death of his majesty's sister, the late Queen of Denmark.—*Act 4.*

1776. The Assembly, in loyal and affectionate expressions, address the king on the situation of affairs during the war in North America: And, in another address, congratulate him on the birth of another prince.—*Acts 4, 5.*

1777-82. The Assembly, in Acts 4 of Assemblies 1777, 1778, 1779, 1781, 1782, address the king, congratulat-

ing him on several additions to the royal family ; and expressing their loyalty and affection during the contest in North America.

1783-4. The Assembly, in expressions of attachment, address his majesty on the conclusion of the American war, and the return of peace and tranquillity to the kingdom ; and on the birth of a princess.—*Act 4.*

1788. Another address congratulating the king on the effects of those measures which prevented the nation from being involved in war ; and declaring the Assembly's resolution of commemorating the anniversary of the Revolution in 1688.—*Act 4.*

1789. The Assembly, in two addresses, couched in the most affectionate expressions, congratulate their majesties on the king's recovery from an alarming illness.—*Acts 4, 5.*

1792-4. The Assembly, in *Act 4*, Assembly 1792, address the king on the marriage of the Duke of York : And in *Act 4*, Assemblies 1793, 1794, address him on the subject of the war with France.

1795. The Assembly address the king and Prince of Wales on the marriage of the latter.—*Acts 4, 5.*

1796. In loyal, dutiful, and affectionate terms, the Assembly address the king on his late preservation when attacked upon his way to the House of Peers ; and in another congratulate him on the birth of a princess, daughter to the Prince and Princess of Wales.—*Acts 4, 5.*

1797. Another address on the marriage of her royal highness the Princess Royal, with his serene highness the hereditary Prince of Württemberg Stutgard.—*Act 4.*

1798. Another address, in most loyal and dutiful expressions, on the subject of the present arduous contest in which the nation is engaged with France.—*Act 4.*

1790. The Assembly, in loyal terms, address his majesty on the situation of public affairs during the late French war.—*Act 4.*

1801. Another address, conceived in warm and affectionate expressions, on the king's providential escape from the hands of a traitorous assassin : Another on the

present posture of public affairs, in Acts 3, 5, Ass. 1800 : And another on the situation of public affairs.—*Act 4, Ass. 1801.*

1802. An address to the king on the restoration of the blessings of peace, is contained in *Act 5.*

1803. A warm and affectionate address to the king on the defeat of an atrocious conspiracy against his life, and the constitution of the country ; and on the present crisis of public affairs.—*Act 6.*

1806-9. Addresses to the king on the situation of public affairs, are contained in *Acts 4. Ass. 1804, 5, 6, 7, 8, and 1809.*

1810. An address to the king on the fiftieth anniversary of his accession to the throne.—*Act 4.*

1811. A warm and dutiful address to the Prince Regent on the illness of his royal father, and the death of the Princess Amelia.—*Act 4.*

1812-13. Addresses to the prince regent on the king's illness, and the situation of public affairs.—*Act 4.*

1814. An address expressive of sympathy for the king's indisposition, and congratulation on the success of the allied powers.—*Act 4.*

1815. Address on the king's protracted illness, peace with America, and the change of affairs by the return of Louis, Ex-King of France.—*Act 4.*

1816. Address on the king's illness, the conclusion of peace, and the marriage of the Princess Charlotte with Leopold, Prince of Saxe Coburg.—*Act 4.*

1817. Address to the prince regent on the king's continued indisposition, the atrocious assault on the person of his royal highness, and the situation of affairs.—*Act 4.*

1818. Address to the same, on the illness of his royal father, and the lamented death of his amiable and beloved daughter.—*Act 4.*

1819. Address to the same, on the king's long indisposition, and the death of the queen.—*Act 4.*

1820. Address to his majesty King George IV, on his accession to the throne.—*Act 4.*

1821. Address to him relative to the prevalence of infidelity and licentiousness, &c.—*Act 4.*

1823. Address on the occasion of his visit to Scotland.—*Act 4.*

Address on the abolition of negro slavery in the West Indies.—*Act 5.*

1827. Address of condolence on the demise of the Duke of York.—*Act 4.*

1830. Address by commission of Assembly of condolence on the death of his majesty George IV, and congratulation to his majesty King William IV, on his accession to the throne, 22d July.

Address to Queen Adelaide, on occasion of his majesty's accession, *eo die.*

## ANNEXATIONS.

1642. The presbytery of Sky adjoined to the provincial synod of Argyle.—*Act Sess. 7, Aug. 3.*

1644. Ordered, That the entry and possession of the new erected presbytery of Biggar, consisting of the twelve kirks mentioned in the act; be immediate, and that the kirk of Biggar be the presbytery seat; and 'tis referred to the commission to determine to what synod that presbytery shall be subordinate, and to prescribe the order and solemnities that shall be necessary, for entering and possessing the ministers and elders of the said presbytery.—*Act Sess. 5, June 3.*

1646. The presbyteries of Kirkwall in Orkney, and Scalloway in Zetland, are joined to the provincial of Caithness and Sutherland, and the same is to meet only once in the year, in respect of their great distance and the interjection of seas; and the place of their first meeting is appointed by the act; but 'tis left to the provincial itself, to appoint the place of their after meetings.—*Act Sess. 11, June 15.*

1648. The presbytery of Zetland is disjoined from the provincial of Caithness and Orkney, and the said presbytery subordinated immediately to the General As-



sembly; for which cause, their commissioners are to be sent to each assembly the more carefully: And 'tis recommended to them, that they send to the next assembly a particular information of the quality and condition of all their kirks, according to Act Sess. 7, Ass. 1647.—*Act Sess. 35, Aug. 9.*

1699. The parishes of Ballantrae and Calmunel are disjoined from the presbytery of Air, and annexed to that of Stranraer; and the parishes of Kirkmabreck, Kells, Dalry, and Carsfern, are disjoined from the presbytery of Kirkcudbright, and annexed to that of Wigton.—*Act 4.*

1700. Strathbogie presbytery is disjoined from the synod of Aberdeen, and again annexed to that of Murray, as formerly.—*Act 4.*

1701. The synod of Angus and Mearns and the synod of Aberdeen disjoined, and appointed to meet in two distinct synods in their usual places, according to Act Dec. 1638.—*Act 7.*

1703. The parishes of Dalry and Carsfern are disjoined from the presbytery of Wigton, and reunited, and again annexed to the presbytery of Kirkcudbright, as they were before the Act 4, Ass. 1699.—*Act 13.*

1704. The act June 15, Ass. 1646, is revived, and the synod of Caithness appointed to enquire diligently into the state of affairs in Zetland; and 'tis declared, That this act shall obtain and stand in force, until the same be recalled by a subsequent assembly; and that notwithstanding the act Aug. 9, Ass. 1648, disjoining the presbytery of Zetland from that synod. But 'tis declared, That notwithstanding this annexation, the presbytery of Dornoch shall still continue to meet and act presbyterially with the presbytery of Ross, as formerly.—*Act 4.*

1707. An unprinted Act, April 11, 1706, ratified, without disjoining the presbyteries of Zetland or Caithness, or annexing the presbytery of Sutherland thereto; and the presbytery of Orkney is divided into two; and the ministers of the parishes in the Main-land and South Isles, with a ruling elder for each minister, are erected into one presbytery, called the presbytery of Kirkwall, to meet at Kirkwall: And the ministers of North Isles,

with a ruling elder for each minister, are erected into another presbytery, to be called the presbytery of the North Isles, to meet at Eday; and in cases of weight and difficulty, one of the ministers of Kirkwall, and the ministers of Evie and Deerness, to correspond with the North Isles presbyteries, and meet therewith.—*Act 10.*

1724. The parishes of Glenelg, Kintail, Lochailish, Lochcarron, Gairloch, Lochbroom, Assint, are erected into a presbytery, called the presbytery of Gairloch, to have their ordinary meeting in that place. And the parishes of Kilmanivaig, Abertarff, Laggan and Urquhart, and Glenmoristoun, are erected into another presbytery, called Abertarff; to meet at Killiewhimmin. And the whole parishes in the Isle of Sky are erected into another presbytery, named Sky; their ordinary meetings to be at Strowan in Braccadale. These, with the presbytery of Long Island, to be erected into a synod, named Glenelg; to meet at Glenelg.—*Act 5.*

1725. The parishes of Kirkwall, Deerness and St Andrews, Holme, South Ronaldsay, Evie and Randall, are united into one presbytery, called Kirkwall; to meet at Kirkwall. The parishes of Birsay and Harray, Firth and Stenhouse, Orphir, Sandwick, Stromness, Græmsay and Hoy, are united into one presbytery, called Cairstoun; their ordinary meetings to be at Cairstoun, now at Stromness. The parishes of Rousay and Egilshay, Westray and Papa Westray, Cross Burness and North Ronaldsay, Lady Parish, Stronsay and Eday, and Shapinshay, to continue their meetings as formerly at Eday, and to retain the name of the presbytery of the North Isles. And these three presbyteries are erected into a synod, called Orkney; to meet at Kirkwall.—*Act 5.*

1726. The parishes of Diurness, Edrachilles, Tong, and Far, are disjoined from the presbytery of Caithness, and the parishes of Kildonan and Assint from that of Dornock, and erected into a presbytery called Tong; to meet at Tong. The presbytery of Dornock is disjoined from the synod of Ross, and, along with Caithness and Tong, erected into a synod, called Caithness and Sutherland, to meet at Dornock and Thurso *per vices*.—*Act 4.*

1729. The parishes within the isles of Mull, Tiree, and Coll, and the country of Ardnamurchan, Sunnard, and Morven, consisting of six ministerial charges, viz. Torosay, Morven, Tiree, Ardnamurchan, Kilfinichen, and Kilninian, are erected into a presbytery, named Mull, to meet at Arras in Mull; and the parishes of Lismore and Appin, Ardchattan and Muckairn, Kilmoir and Kilbride, Kilbranden and Kilchatten, Kilninver and Kilmelfort, are erected into a presbytery, called Lorn; their place of meeting Kilmoir.—*Act 5.*

1740. Presbyteries are discharged from consenting to, or conniving at the suppression or annexation of parishes, without the consent or approbation of the synod of the bounds, or the General Assembly.—*Act 5.*

1742. The parishes of Lochs, Stornoway, Barfas, and Uig, are disjoined from the presbytery of Long Island, and erected into a presbytery, called Lewis, to meet at Carlaway; and the parishes of Harris, North Uist, South Uist, and Barra, are erected into another presbytery, named Uist; their ordinary meetings to be at Carinish.—*Act 4.*

1743. The parishes of Annan, Hoddam, Dornoch, Middlebee, Kirkpatrick, and Gretna, from the presbytery of Middlebee, and the parishes of Cummertrees and Ruthwell, from the presbytery of Lochmaben, are erected into a presbytery named Annan, to meet at Annan. And the parishes of Langholm, Ewes, Westerkirk, Eskdalemoor, from the presbytery of Middlebee, and the parish of Castletoun from that of Jedburgh, are erected into a presbytery, called Langholm; their place of meeting Langholm.—*Act 5.*

1745. Synods are prohibited to disjoin any parish from a presbytery, and annex the same to another, without first having the authority of the General Assembly; and that what shall be done in virtue of such authority, be reported to the Assembly next following, and their approbation had to any such annexation or disjunction.—*Act 5.*

1776. The parish of Nenthorn is disjoined from the presbytery of Lauder, and annexed to that of Kelso; and the ministers of Nenthorn declared constituent members of the presbytery of Kelso in all time coming.—*Act 8.*

1830. The presbytery of Zetland separated into two presbyteries, to be called the presbyteries of Lerwick and Burra-voe, and constituted the synod of Zetland.—*Act 8.*

### APPEALS\*.

1639. That in all time thereafter, no appellations be, leaping over either presbytery or synod, but to ascend by degrees; as, from the kirk-session to the presbytery, or from the presbytery to the synod, and from the synod to the General Assembly; except it be after the synod be past, and immediately before the General Assembly, or in the time thereof: and all former acts made to this effect are renewed.—*Act Sess. 23, Aug. 30.*

1643. That the foresaid acts anent appeals be extended also to bills and references; that all bills whatever of particular concern, whereunto all parties having interest are not cited, be rejected; that all bills be first presented to the inferior judicatures of the kirk, which may competently consider of them, and from them be orderly and *gradatim* brought to the assembly, according to the order prescribed in the above act; that if all the parties having interest in appellations and references of particular concernment, have been present in the inferior judicature when the appeal and reference was made, there is no necessity for citation; but, in case of their absence, citation of parties is so necessary, that if it be wanting, appellations and references should not be received; that, conform to former acts of assemblies, appellations, *post sententiam*, be made within ten days after the sentence, and otherwise not to be respected.—*Overt. Sess. 2. Arts. 1, 2, 3, 4, 5, Aug. 3.*

1648. For clearing the sense of article 5, above mentioned, it is declared, That if appellations, *post latam sententiam*, be not presented to the judicatory when the sentence is pronounced, the party shall then, *immediately after the sentence, protest for liberty of appeal*, as he

\* *Vide* Acts of Assembly, 30th Aug. 1639, and Form of Process, c. v. (vol. i, p. 152.)

shall see cause; and accordingly, *within ten days, shall give in his appeal, in writ, under his hand, either to the judicatory, or the moderator thereof, otherwise the appeal is not to be respected.*—*Act Sess. 30, Aug. 5.*

1694. That any appeals made in writ under the appellant's hand, with the reasons thereof, in presence of the judicatory appealed from, shall be extracted by the appellant in due form, from the records of the said judicatory, and produced to the judicatory appealed to, at the discussing thereof, with a citation of the parties defenders therein, either *apud acta* if they be present when the appeal is made, or a separate citation if they be absent; and that all parties who have immediately after sentence verbally appealed, and protested for liberty to give in their subscribed appeals, with the reasons thereof, within the space of ten days thereafter, according to the former practice, shall, within that space, give in their said subscribed appeals, with the reasons thereof, to the clerk of the judicatory appealed from, notwithstanding it may be up before that time: And likewise, that they shall within the same ten days intimate their said appeal, with the reasons of the same, to the moderator of the said judicatory, and leave an authentic copy thereof with him; which appeals and reasons are allowed to be registered by the clerk, and summons to be directed by him, for citing the parties defenders thereupon; and extracts thereof, with the citation foresaid, are appointed to be produced by the appellants at discussing, to the judicatory appealed to; and the clerk of the judicatory appealed from is appointed to intimate to the said judicatory, at their first meeting thereafter, that such appeals were given in to him; and all defenders in appeals, who insist upon the discussion thereof, are appointed to produce extracts of the said appeal, and reasons thereof, to the judicatory appealed to. And it is declared, That any appeals or insistings thereanent, otherwise made, shall be rejected.—*Act 8.*

1696. The appeals and proteatations made to the Assembly 1696, from the committee of Assembly 1694, for the North, declared to be deserted and fallen from;

&c. because not insisted in before that Assembly.—*Act 26.*

1707. *Vide* Form of Process, ch. v. vol. 1 of Compend. pp. 152, 153, 154.

1732. In explanation of the above § 10. cap. 5. Form Process, It is appointed, That in all time coming, an appeal shall stop the finishing of the settlement of a parish by an inferior judicature, until it is either fallen from or discussed: Nevertheless a presbytery may proceed to take trials, serve the edict, and go on with all the other previous steps towards the settlement, only the ordination or admission shall stop until the appeal be discussed.—*Act 5.*

### ATHEISM.

1696. It is seriously recommended to ministers of the gospel, and they are enjoined, where there is any apparent hazard of contagion from the atheistical principles of such as only go under the name of deists; to warn and guard the Lord's people against that infernal course, and to detect the abominableness of the tenets of these men; such as, the denying of all revealed religion, the grand mysteries of the gospel, viz. "The doctrine of the Trinity, the incarnation of the Messiah, his satisfaction to justice, salvation through him, justification by his imputed righteousness to them who believe in his name, the resurrection of the dead; and in a word, the certainty and authority of scripture revelation: As also, their asserting, that there must be a mathematical evidence for each purpose, before we can be obliged to assent to any proposition thereanent; and, that natural light is sufficient to salvation." And it is required, that the authors that treat well of these subjects be named to the people, in order to perusal. As likewise, that ministers deal seriously with the seduced, and such as are most in hazard of being perverted, but especially with seducers and impostors, that, after sufficient instruction and admonition, these may be proceeded against, as scandalous and heretical apostates use to be. And all ministers;

and other members of this church, are discharged from publishing or venting, either by speaking, writing, printing, teaching or preaching, any doctrine, tenet or opinion, contrary to, or inconsistent with, the Confession of Faith of this church, or any article, part, or proposition therein. And all such as contravene this act, or any part thereof, are appointed to be censured by the church, according to their demerits.—*Act 21.*

1697. It is recommended to all ministers and church judicatories, to observe and put in execution the above. *Act 21, Ass. 1696.—Act 17.*

### BAPTISM.

1645. That the sacrament of baptism be administered in the face of the congregation, that what is spoken and done may be heard and seen of all; and that it be administered after sermon, before the blessing.—*Act Sess. 14. Feb. 7.*

1647. Recommended to presbyteries to consider of the best means to get the children of ordinary beggars baptized, and to prevent themselves from living in so great vileness.—*Act Sess. ult. Sept. 1.*

1711. Recommended to all ministers, in whose parishes persons educated in other protestant churches may happen to reside, to shew all tenderness to them when they come to desire the benefit of sealing ordinances; and if strangers, free of scandal, and professing their faith in Christ, and obedience to him, shall desire baptism to their children, ministers shall cheerfully comply with their desire, in administering the sacrament of baptism to their children, upon the parent's engaging to educate them in the fear of God, and knowledge of the principles of the reformed protestant religion.—*Act 13.*

1712. Declared; That children born within the verge of the visible church; of parents, one or both professing the christian religion, have a right to baptism; and that no other sponsor but the parents is to be taken, unless the parents be dead, or absent, or grossly ignorant, or

under scandal, or contumacious to discipline, such being unfit to stand as sponsors, in transacting a solemn covenant with God; in which cases the immediate parent, who is in such circumstances, is to be required to provide some fit person; and, if it can be, one related to the parent of the child, should be sponsor. But if either of the parents, whether father or mother, give evidence to church judicatories, and the congregation offended, of their repentance, for removing the scandal, the suspension they were under as to church privileges, should be taken off, according to the rules of this church, and the penitent person be allowed to present the child. In the case of children exposed, whose baptism, after inquiry, cannot be known, the kirk-session is to order the presenting of the child to baptism, and to see to the christian education thereof; and it is recommended to the parish to see to the maintenance of the child; the parent or sponsor ought to speak to the minister of the parish before the child be offered to baptism.—*Act 4.*

### BOOKS OF PRAYER, &c.

1638. The book of common prayer is rejected and condemned, not only as illegally introduced into the reformed kirk within this realm, but also as repugnant to the doctrine, discipline, and order of this kirk, to the confession of faith, constitutions of General Assemblies, and acts of parliament, establishing the true religion; and the use and practice thereof is prohibited, and presbyteries are ordained to proceed with the censures of the kirk against such as transgress.—*Act Sess. 14. Dec. 6. Art. 1.*

1638. The book of canons rejected and condemned, as contrary to the confession of faith, and repugnant to the established government, the book of discipline, the acts and constitutions of our kirk; and the use and practice of it is prohibited, and presbyteries ordained to proceed with the censures of the kirk against all such as shall transgress.—*Act Art. 2.*

1638. The book of consecration and admission is re-



jected and condemned, as establishing offices in God's house which are not warranted by the word of God, and are repugnant to the constitutions of our kirk, as an impediment to entry of fit and worthy men to the ministry, and to the discharge of their duty after their entry, conform to the discipline of our kirk; and the use and practice of the same is prohibited, and presbyteries are ordained to proceed with the censures of the kirk against all such as shall transgress.—*Act Sess. 14. Dec. 6. Art. 3.*

1643. The recommendation of the commissioners of the General Assembly at St. Andrews, 1642, to every minister within their several bounds, especially upon the coasts, or where there are harbours or ports, to try and search for all books tending to separation, is turned into an act of Assembly: And every minister is appointed to be careful to try and search, if any such books be brought into this country from beyond seas, and if any shall be found, to present them to presbyteries, that some course may be taken to hinder the dispersing thereof: And it is recommended to civil magistrates to concur, with their authority, in all things, for the effectual execution thereof.—*Act Sess. 7. Aug. 9.*

1647. All members of this kirk and kingdom are inhibited and discharged to converse with persons tainted with the errors of *independency* and *separation*; or to import, sell, spread, vend, or disperse their erroneous books or papers: But that they beware of, and abstain from books maintaining *independency* and *separation*; and from all *antinomian*, *anabaptistical*, and other erroneous books and papers: And all ministers are required to warn their flocks against such books in general, and particularly such as are most plausible, insinuating, and dangerous; and to try carefully, from time to time, if any such books be brought into this kingdom from England, or from beyond seas (which is especially recommended to ministers on the sea coast, or in towns where any stationers are); and if any be found, to present the same to the presbytery, that some course may be taken to hinder the dispersing thereof. And all presbyteries are ordained to try and process such as shall transgress

against the premises, or any part of the same; and it is seriously recommended to civil magistrates to assist ministers and presbyteries, in the execution of this act, and to concur, with their authority, in every thing to that effect:—*Act Seas. 27. Aug. ult.*

1707. That presbyteries take special notice of any book or pamphlet framed, contrived, printed, or published by any minister of this church; and examine if there be any thing therein contrary to the doctrine, worship, discipline or government, or prejudicial to the rights and privileges or unity of this church; and that they censure transgressors according to the demerit of the cause.—*Act 7.*

1720. Some passages are collected out of the book, entitled “The Marrow of Modern Divinity,” 1st, Concerning the nature of faith, asserting that assurance is of the essence of faith, making that saving faith commanded in the gospel, a man’s persuasion that Christ is his, and died for him, and that whoever hath not this persuasion and assurance, hath not answered the gospel call, nor is a true believer: 2dly, Of universal atonement and pardon; asserting an universal redemption as to purchase. 3dly, Asserting that holiness is not necessary to salvation, a doctrine tending to slacken people’s diligence in the study of holiness: 4thly, That fear of punishment and hope of reward are not allowed to be motives of a believer’s obedience: 5thly, That the believer is not under the law as a rule of life; and sensing and defending the six following Antinomian paradoxes:—that a believer is not under the law, but is altogether delivered from it;—that a believer does not commit sin;—that the Lord can see no sin in a believer;—that the Lord doth not chastise a believer for his sins;—and that a believer hath no cause either to confess his sins, or to crave pardon at the hand of God for them; either to fast or mourn, or humble himself before the Lord for them, by applying to them the distinction of the law of works, and the law of Christ. And the texts of Holy Scripture, articles of our confession of faith, and of the larger catechism of this church, relating to each passage, are set down; and

the said passages and quotations are declared contrary thereto; and the distinction of the law, as it is the law of works, and as it is the law of Christ, as the author applies it, in order to sense and defend the six Antinomian paradoxes above written, is declared altogether groundless; and some expressions taken out of the said book, and set down in the foresaid act, are found exceedingly harsh and offensive: And therefore, all the ministers of this Church are prohibited and discharged, either by preaching, writing, or printing, to recommend the said book, or, in discourse, to say any thing in favour of it; but, on the contrary, are enjoined and required to warn and exhort their people, in whose hands the said book was, or might come, not to read or use the same.—

*Act 5.*

1722. The representation and petition signed by twelve ministers, condemning the decision respecting the points of doctrine mentioned in the above Act 5. Ass. 1720, and craving the repeal of it, is found to contain many injurious and undutiful reflections cast upon the supreme judicature of the church: And in vindication of the above act, it is declared, that the General Assembly own and maintain, agreeable to the Holy Scriptures, the received doctrine of this church, contained in the confession of faith and catechisms, concerning, *1st*, The covenants of works and grace; *2dly*, The mediator, and the extent of his purchase; *3dly*, Free justification; *4thly*, Justifying faith, and its appropriating act; *5thly*, The believer's plea for acceptance with God, and title to eternal life, against the demands of the law and justice; *6thly*, The standing obligations of the moral law in the dispensation of grace, and the necessity of personal holiness and good works, in order to obtain the enjoyment of eternal salvation; *7thly*, The desert of sin, and necessity of repentance in order to remission; *8thly*, Believers' sins, their confessing them, begging pardon, and humbling themselves before the Lord for them. The heads and articles of the representation are largely animadverted upon; and many positions and expressions contained in it censured as pernicious, and tending to

mislead the minds of the less judicious into erroneous notions ; and therefore all the ministers of the church are prohibited and discharged to use, by writing, printing, preaching, catechising, or otherwise teaching any of the positions contained in the representation and book, condemned as erroneous, under pain of the censures of the church, conform to the demerit of the offence. Ordained that presbyteries, synods, and commissions of the Assembly, take particular care that the premises be punctually observed by ministers and members of the church ; particularly the presbyteries and synods within whose bounds any of the brethren who signed the representation reside. The desire that the above Act 5, Ass. 1720, be repealed, is refused, and appointed that the ministers who signed the representation, though deserving a higher censure, be only rebuked and admonished by the moderator, in hopes that the great lenity used towards them, shall engage them to a more dutiful behaviour in time coming.  
—Act 7.

1755. Recommended earnestly to ministers to exercise the vigilance, and to exert the zeal, which becomes their character, to preserve those under their charge from the contagion of those abominable principles of infidelity and immorality, which are openly avowed in books published of late in this country, and to stir up in them a solicitous concern to guard against them, and against the influence of those who are infected with them.  
—Act 4.

### BOURIGNONISM.

1701. The writings that go under the name of Madame Antonia Bourignon, found to be freighted with impious, pernicious, and damnable doctrines : Such as, 1. Denying the permission of sin, and the infliction of damnation and vengeance for it. 2. Ascribing to Christ a twofold human nature, one of which was produced of Adam before the woman was formed, and the other born of the Virgin Mary. 3. Denying the decrees of election and reprobation, and loading these acts of grace and so-

vereynty with a multitude of odious and blasphemous expressions, particularly wickedness, cruelty, and respect of persons. 4. Asserting that there is a good spirit and an evil spirit in the souls of all men before they are born. 5. Maintaining that the will of man is unlimited, and that there must be in man some infinite quality, whereby he may unite himself to God. 6. Denying the doctrine of divine prescience. 7. Asserting the sinful corruption of Christ's human nature, and a rebellion in Christ's natural will to the will of God. And 8. Asserting a state of perfection in this life, and a state of purification in the life to come; that generation takes place in heaven; that there are no true christians in the world; and several other errors contained in the said book. And ratifying and confirming the sentence of suspension past by the commission of assembly 1700; against Dr. George Gardin in Aberdeen; and further, actually deposing him from the office of the ministry, and prohibiting and discharging him from exercising the same, or any part thereof, in all time coming, under the pain of the highest censures of the church, for his being led away by a spirit of error and very gross delusion, and infected with the foresaid impious, blasphemous and damnable errors.—*Act 11.*

1701. The book entitled an Apology for Madame Antonia Bourignon, of which the said Dr. George Garden is alleged to be the author, found to contain a mass of dangerous, impious, blasphemous, and damnable errors, and is therefore condemned unanimously; and 'tis seriously recommended to all synods and presbyteries within this national church, and particularly to the synods of Aberdeen and Perth, to advert to, and enquire anent the spreading of the said errors, and to use all effectual means for preventing the same, conform to the acts of former assemblies made against the spreading of errors, and particularly, Act Sess. 7, Ass. 1647. And it is recommended to the said judicatories, that in perusing the said book, and enquiring anent the spreading of the errors therein contained, any thing found to fall under Act 11, Sess. 5, Parl. 1695, or under any other acts of parliament made against blasphemy, be represented to his majesty's advo-

cate, to the effect that the laws may be put in due execution.—*Act 10.*

1709. It is earnestly recommended to presbyteries to use all effectual means to prevent the spreading of the dangerous errors of Bourignonism, and other errors, as enjoined by the above Act 10, Ass. 1701, and other acts therein mentioned; and the commission is instructed to use all suitable endeavours for that purpose, and particularly, that care be taken to suppress the meetings of such as are tainted with these errors.—*Act 12.*

1710. All ministers, in whose parishes the gross errors and heresies going under the name of Bourignonism, abound, are appointed to preach most particularly and faithfully against the same; and all presbyteries, in whose bounds the same prevail, shall oblige all schoolmasters, teachers, governors of youth, and chaplains, within their province, to subscribe the confession of faith, as the confession of their faith; and if any of the foresaid persons refuse to do the same, the presbytery shall thereupon declare them incapable of such offices, and apply to the heritors and heads of families concerned, in order to their discharging the said persons from the said offices; and in case of their refusal to comply therewith, that the presbytery send up the names of the foresaid persons refusing to sign the confession of faith, to the commission of assembly, with the names of the parishes and families in which they reside; that the commission may proceed against all such, as they see cause. And all presbyteries, in whose bounds there are any society of Bourignonists, avowedly professing these principles, and dispersing books containing the same, are ordained to send to the commission an exact and full account of the particular leading persons of the said societies, together with the names and errors of the books they are dispersing; and the commission is enjoined to take the most effectual measures for suppressing the same; and instructed to apply to the government, for hindering incorrect, false, and spurious translations of the Bible, to be spread abroad. And it is recommended to the professors of divinity within this church, to make a full collection of the errors of Antonia-

Bourignon, and of such other errors as reflect upon the nature, person, and offices of our Lord Jesus Christ, and to write a confutation of the same.—*Act 9.*

### BURSARS.

1641. Enacted, That every presbytery consisting of twelve ministers shall maintain a bursar of divinity; and where the number is fewer than twelve, they shall be joined with those out of another presbytery, whose number exceeds: When this course is not already kept, that it be begun without delay; and every provincial synod is ordained to give an account of the number of bursars constantly entertained by their province, to the next ensuing Assembly.—*Act Sess. 15, Aug. 7, Art. 1.*

1643. Enacted, That young students that have the Irish language be trained up at colleges in letters, especially in the study of divinity: And to this effect, it is recommended to presbyteries and universities to prefer to bursaries hopeful students having that language, that they, by their studies, in process of time attaining to knowledge, and being enabled for the ministry, may be sent forth to preach the gospel in these Highland parts, as occasion shall require.—*Act Sess. 13, Aug. 16.*

1644. Presbyteries are ordained to put the foresaid overture for maintaining bursars in practice, with all diligence; and to make account thereof to the next Assembly.—*Act Sess. 7, June 4.*

1645. Enacted, 1. That every bursar of theology have yearly paid him for his maintenance, £100 Scots, at least. 2. That the said maintenance be taken forth of the kirk penalties, according to the design of the first act for maintaining bursars. 3. That every presbytery consisting of twelve kirks in number, maintain a bursar yearly at the university. 4. That when presbyteries are fewer in number, that they join with other presbyteries to make up that number, and the superplus of the number to be ordered and disposed of by the presbyteries and synods; and that their books bear records thereof. 5. That the

kirks of these presbyteries be proportionally stented, according to the communicants in each parish. 6. That the maintenance be collected by the moderator of every presbytery, by equally divided portions; the one half to be brought to the winter synod, and the other half to the summer synod, to be sent to the bursars; and that the several synods take an exact account thereof, and see that all be rightly done, and that their books bear the report thereof to the General Assembly. 7. That the time of bursars' abode at the schools of divinity exceed not four years, which being expired, or in case before the expiring of the said time, any be removed either by death, or by some calling to a particular charge, another be presented to the said benefice. 8. That in case any prove deficient in payment of the said maintenance for the time to come, that it shall be carefully exacted by the synods, and sent over to the General Assembly, to be disposed of by them, as they shall find expedient, so that no person may have benefit from their slackness and neglect. 9. That all bursars of theology bring sufficient testimonials yearly from the universities where they are bred, of their proficiency and good behaviour; and that they be also ready to give proof of their labours to the several synods, if it shall be required; and if they be found deficient, that they be denuded of the said benefice, and others more hopeful placed in their room; and presbyteries who have not already done it, are appointed to begin and enter upon the maintaining of their bursars, in manner foresaid, in the year 1645. And it is recommended to presbyteries, to make choice of such for the burse, as are of good report, inclined to learning, and have passed their course of philosophy, and to try their qualifications before they send them to universities.—*Act Sess. 14. Feb. 7.*

1647. The foresaid overtures concerning the providing of bursars for divinity, are recommended to presbyteries and synods; and they are appointed to report their diligence to the next Assembly.—*Act Sess. 28. Aug. ult.*

1648. Synods are ordained to crave accounts from presbyteries, at every provincial meeting, how they have



obeyed the recommendation of preceding Assemblies anent bursaries, which, with the presbytery's answer, shall be put upon record; that so the part both of presbyteries and synods, and their negligence or diligence in so pious a work, may be known, by the examination of the provincial books to each General Assembly.—*Act Sess. 32 Aug. 7.*

1649. Enacted, That none be sent to universities from presbyteries, or admitted as bursars of divinity, but pious youths, and such as are known to be of good expectation and approved abilities.—*Act Sess. ult. Aug. 6.*

1701. It is recommended to the synods after mentioned, that they maintain bursars of theology, having the Irish language, besides the usual presbytery bursars; and that out of the minister's own money, which is to be done as follows, viz. The synods of Lothian and Tweeddale, Merse and Tiviotdale, Glasgow and Air, Argyle, Perth and Stirling, and Fife, each of them one; the synods of Dumfries and Galloway, one; and the synods of Angus and Mearns, and Aberdeen, one: And it is recommended to them to proportion the quota of the maintenance to be given to these bursars, amongst themselves; which is at least to be ten pounds sterling, the one half thereof to be collected and advanced at every synod, beginning at the next ensuing synod; and that the synod books bear an account of their diligence in the same; and that each of the said bursars continue four years at the profession of theology, as other bursars do; and that all presbyteries search out for such well qualified young men as have passed their course of philosophy at some university, and send in their names to the commission of the General Assembly, with sufficient testimonials, so that they may be by them recommended to the said synods, and this act to continue during the Assembly's pleasure; and for enlarging the said funds, Act 9. Ass. 1699, anent planting the Highlands, is renewed and revived.—*Act 8.*

1704. That the one half of all the bursaries of the presbyteries be south the Tay, including the part of the synod of Perth that lies be north the Tay, be paid unto collectors, to be appointed by the respective presbyteries

of Edinburgh, Glasgow, and St. Andrews; which presbyteries are to be accountable to their respective synods concerned, for what money they receive; the one half thereof to be applied for the education of such youths as have the Irish language, in philosophy and divinity, at the colleges of Edinburgh, Glasgow, and St. Andrews; and the other half to be disposed of to Lowland bursars, or such other pious uses as the respective synods shall think fit; and for this end, the synods of Glasgow, Galloway, and Dumfries, to pay their burses to a collector, to be appointed by the presbytery of Glasgow, and under their inspection, accountable to their synods: In like manner, the synods of Merse and Lothian, to the presbytery of Edinburgh; the synods of Fife, Perth, and Stirling, to the presbytery of St. Andrews; and this to begin at October 1704, and to continue for four years, and longer, as the General Assembly shall see cause: That to the synod of Argyle (who have a gift of vacancies for training youth) a certain small number of the bursaries payable to the collector appointed by the presbytery of Glasgow, be allotted, and all the rest for the other Highlands; and that none have the benefit of the said bursaries but such as bring a testimonial or recommendation from the synods respectively to which they belong, bearing their having been examined by that synod, and the synod's good hopes of them as sober youths, piously inclined—well affected to the government of church and state—that they have the Irish language—good proficient in the Latin, and such as they judge may, in due time, prove able ministers of the gospel, or schoolmasters; and that they have obliged themselves to employ their talents in these services in the Highlands, either within the bounds of the synods recommending them, or some others by their allowance; and that these testimonials be recorded, with their names, and reported to each General Assembly; and the Act 8, Ass. 1701 is renewed, appointed to be observed till the General Assembly see cause to recall the same.—Act 13.

1705. The above Act 13, Ass. 1704 explained; and it is declared, that the disposal of all these bursaries is only in the power of the synods, and not of the presby-

teries; and it is left to the direction of the several synods to apply that act either to bursaries then current, or only to such as were vacant at the date of the act, as they find convenient; and for that end, it is recommended to the said synods to take an account from their respective presbyteries, what bursers they have in their bounds, and at what time these bursers will fall vacant; and that the presbyteries be joined two and two for making one Lowland burse of their two halves, appointed by the foresaid act for that end; and in case there be an odd presbytery in a synod, that such synod dispose of that odd presbytery's half to such pious uses as the synod shall think fit.—*Act 11.*

1707. Enquiry is ordered to be made, 1. How Acts 9, 16, Ass. 1699, and Act 9, Ass. 1703 are observed. 2. That enquiry be made what bursars there are having the Irish language, and how the acts made concerning them are obeyed; particularly Acts 13, 14, Ass. 1704, and Acts 5, 11, Ass. 1705. 3. That at each Assembly the names of the Irish bursars be called for, and an account thereof given in to the clerk; as also, what hope there is of their being useful in this church; and the commission is empowered to put this act, and the acts above mentioned in execution.—*Act 14.*

1709. The collections ordered by Act 13, Ass. 1704, for maintaining bursars, are again enjoined; and synods are appointed to see this done, and record their diligence in their books; and the said act is revived until the next Assembly: And it is referred to the commission to prepare the overtures for the right application and management of the foresaid bursaries for the future, and report to the next Assembly.—*Act 14.*

1710. It is enacted that one half of the whole bursaries of all the presbyteries within Scotland, be applied to the education of such youths as have the Irish language, in philosophy and divinity, at the colleges of Edinburgh, Glasgow, St. Andrews, and Aberdeen, for the space of four years, beginning from the 1st of October 1710; and the manner of collecting the money to be applied to the maintenance of the said bursars, is prescribed in the act: And

it is declared, that the respective synods to which the said bursaries belong, shall have the choice and presentation of the Irish bursars; and that no person shall have the benefit of either Highland or Lowland bursaries but such as bring a testimonial or recommendation from their synods respectively, bearing their having been examined by the synod, and the synod's good hopes of them as sober youths, piously inclined; well affected to the government of church and state; that they are good proficient in Latin and such as they judge may, in due time, prove able ministers of the gospel or schoolmasters; and if they be presented to Irish bursaries, bearing that they have the Irish language, and have obliged themselves to employ their talents in these services in the Highlands, either in the bounds of the synods presenting or recommending them, or some other by their allowance; and the foresaid testimonials are appointed to be recorded, together with the bursars' names, and to be reported to each Assembly; and Act 8, Ass. 1710, and Act 11, Ass. 1705, are renewed, and appointed to be observed until the Assembly see cause to recal the same; and the commission is empowered to inquire how former recommendations about students have been observed, and to take care that students be provided with bursaries, and have all due encouragement to prosecute their studies—the said students being always qualified in the terms of this and other acts herein narrated.—Act 10.

1712. It is recommended to synods to admit no more bursars having the Irish language, but so many as to each of whom they are in a condition to pay £10 sterling at least, and for that end the bursaries of more than two or three presbyteries, if they be small, are appointed to be joined together to make up the said sum; and the several presbyteries are appointed to send in to the commission a particular and distinct account of the *quotas* of their bursaries, subscribed by their moderator and clerk; and the commission is appointed so to proportion the said bursaries in the several districts as to make at least £10 sterling to each bursar, out of the half of the bursaries appropriated by the acts of Assembly for that use; and the several synods are required timeously to fill up their vacant bur-

saries in manner above mentioned ; and they are ordained to examine bursars at least once every year, at their meeting in harvest or winter ; and presbyteries are enjoined to pay in punctually their several proportions of the said bursaries ; and the names of the deficient are appointed to be given in to the meetings of the commission that immediately precede each Assembly ; and the commission is instructed to look out for hopeful young men, having the Irish language, in order to be put on trials.—*Act 12.*

1714. It is recommended to synods and presbyteries to make particular and exact inquiry into the education, piety, literature, principles, and conversation of those whom they recommend to bursaries ; and that they recommend none who, they have not ground to believe, will be useful, and who are firm to the interests of this church ; and such presbyteries as shall discover any just ground of suspicion in young men having these bursaries, with respect to these things, are appointed to acquaint the Assembly, or commission thereof, and also the presbyteries or synods whose bursars they are, that if they be found unworthy, the encouragement they enjoy may be taken from them, and bestowed on persons having the qualifications required by the acts of the Assembly.—*Act 7.*

1715. All synods and presbyteries are enjoined to prefer students having the Irish language to their bursaries when they vaik, and punctually to pay them their provisions, and to take trial of their proficiency, and to mark their diligence herein in their books ; and the visitors of the synod and presbytery books are appointed to take notice how the acts of Assembly concerning bursars are observed, and to report the same. And the commissions of the Assemblies of this church are required to see to the observation of the acts, and to enquire after such students, and recommend them to bursaries ; and all powers given to former commissions in this matter are renewed.—*Act 7.*

1717. Appointed, That such as crave the benefit of bursaries, or who are to be admitted to trials for the ministry, in order to be sent to the Highlands, be first examined

upon their knowledge in the Irish language, by persons having a competent measure of knowledge in that language; and be found by them to have so much knowledge of that language, as that they may be useful in a Highland congregation: And the names of the said examiners, together with their report, ordained to be recorded in the books of the judicatory that employs them in said trials.—*Act 7.*

1722. Ordered, That the bursaries of the synod of Lothian and Tweeddale, one synodical and three presbyterial, employed for the maintenance of students having the Irish language, be, at the term of Martinmas 1723, applied for the maintenance of two Lithuanian students, to be educated at the University of Edinburgh; providing always that none shall be received from Lithuania, as bursars, but such as shall be attested and recommended by the protestants there.—*Act 5.*

1737. Repealed by act 7, 1756.

1740. Appointed, That the synod of Glasgow and Ayr, the synod of Dumfries, and the synod of Galloway, pay their synodical burses, and the presbytery of Ayr their presbyterial burse, towards maintaining Mr. Nicodemus Bieniaszeuski, student in divinity from Lithuania.—*Act 8.*

1756. And it is recommended to ministers to pay in to the clerk of presbytery yearly the sum of three shillings sterling to be applied for educating students for the ministry having the Irish language. And it is ordained, that every student trained for the ministry in the Highlands and Islands upon this fund, when he becomes a minister, preach every Lord's day in English, as well as in the Irish language: And it is recommended to ministers now settled in those parts to do the same: And they are appointed to do every thing in their power to have as many schools as they can in that part of the kingdom, so that the English tongue may spread the faster, till it be universally understood and spoken.—*Act 7.*

## CALLS.

1646. Recommended to the several presbyteries and provincial synods, to consider the interest of particular congregations, in the calling and admission of ministers, with all these questions that usually fall out upon that occasion; and to report overtures.—*Act Sess. ult. June 18.*

1649. Enacted, That, 1. When any place of the ministry in a congregation is vacant, the presbytery do, with all diligence, send one of their number to preach to that congregation, who, in his doctrine, is to represent to them the necessity of providing the place with a qualified pastor, and to exhort them to fervent prayers and supplication to the Lord, that he would send them a pastor according to his own heart: As also, he is to signify, That the presbytery, out of their care of that flock, will send unto them preachers, whom they may hear; and if they have a desire to hear any other, they will endeavour to procure them a hearing of that person or persons; upon the suit of the elders of the presbytery. 2. Within some competent time thereafter, the presbytery is again to send one or more of their number to the said vacant congregation, on a certain day appointed before for that effect, who are to convene to hear sermon the foresaid day; which being ended, and intimation being made by the minister, they are to go about the election of a pastor for that congregation, the session of that congregation shall meet and proceed to the election, the action being moderated by him that preached: And if the people shall, upon the intimation of the person agreed upon by the session, acquiesce and consent to the said person, then, the matter being reported to the presbytery by commissioners sent from the session, they are to proceed to the trial of the person thus elected, and finding him qualified, to admit him to the ministry in the said congregation. 3. But if it happen that the major part of the congregation dissent from the person agreed upon by the session, in that case the matter shall be brought unto the presbytery, who shall judge of the same; and if they do not find their

dissent to be grounded upon causeless prejudices, they are to appoint a new election, in manner above specified.

4. But if a lesser part of the session or congregation shew their dissent from the election, without exceptions relevant and verified to the presbytery, notwithstanding thereof, the presbytery shall go on to the trials and ordination of the person elected; yet all possible diligence and tenderness must be used to bring all persons to an harmonious agreement. 5. It is to be understood, that no person under the censure of the kirk, because of any scandalous offence, is to be admitted to have hand in the election of a minister. 6. Where the congregation is disaffected and malignant, in that case the presbytery is to provide them with a minister.—*Act Sess. 4. Aug. 4.*

1708. Recommended to presbyteries to think upon some method to prevent competing of calls; and, in case of such, how to prevent their coming to superior judicatories; as also, a method to prevent the giving of a second call, by a different parish; to any minister or probationer, during the dependence of a prior call from another parish or parishes, and process thereupon, and until the first call and process be discussed.—*Act 14.*

1748. It is enacted and declared, That in the moderation of calls to ministers for supplying vacant parishes, no person shall be admitted to vote, who has either twice heard sermon in any meeting or congregation not allowed by law; or attended divine worship performed by any non-jurant minister or preacher of the episcopal communion, or where King George and the royal family were not prayed for in express words, within twelve kalendar months immediately preceding the vacancy of the church to be supplied; or who, during any part of that time, has received the sacrament of the Lord's supper dispensed by such ministers, or allowed their children to be baptised by any of them.—*Act 4.*

1782. Declared, That the moderation of a call, in the settlement of ministers, is agreeable to the immemorial and constitutional practice of this church, and ought to be continued.—*Act 7.*



## CAMPVERE.

1641. Resolved, That the Scots Kirk of Campvere be joined to the Kirk of Scotland, as a member thereof; and a member of Assembly is appointed to write to the minister thereof, to send a minister and elder, instructed with a commission to the next Assembly.—*Act Sess. 18. Aug. 9.*

1704. Some propositions concerning the kirk of Campvere, viz.

1. Their observing of that order in the outward worship of God, and exercise of discipline, as is received in Scotland by law and practice. 2. Their sending commissioners to the Assembly every third year. 3. Their receiving counsel and advice, in different cases, from the presbytery of Edinburgh, or commission of Assembly; and 4. The bearing of their moderator's expenses coming hither at the Assembly's command;—again enacted and authorized, and appointed to be recorded in the books of the Assembly; and the commission of that and subsequent Assemblies of this church, impowered and authorized to act, cognosce, advise, and determine in all affairs belonging to the said kirk and consistory of Campvere, that shall be proposed to, or pursued before them, as their superior judicatory; but recommended to them to pay the charges of their own commissioners out of their own stock, until the church be in a better capacity to assist them.—*Act 24.*

## CATECHISING AND CATECHISMS.

1639. An uniform catechism appointed to be used throughout this whole kingdom, in the examinations before the communion.—*Act Sess. 22. Aug. 29. Art. 7.*

That every minister, besides his pains on the Lord's day, have weekly catechising of some part of the parish, and not altogether put off the examination of the people, till a little before the communion.—*Act Aug. 30.*

1648. The Larger Catechism, agreed upon by the Assembly of Divines, at Westminster, with the assistance of commissioners from the Kirk of Scotland, found agreeable to the word of God, and in nothing contrary to the received doctrine, worship, discipline, and government of the said kirk; and therefore approven and agreed unto by the said Assembly for their part, as a common catechism for the three kingdoms.—*Act Sess. 10. July 20.*

1648. The Shorter Catechism, likewise agreed upon by the said Assembly at Westminster, with the assistance foresaid, found also agreeable and approven, as said is.—*Act Sess. 19. July 28.*

1648. The vending, selling, or using in schools or families, of a little catechism, entitled, "The A, B, C, with the Catechism, that is to say, an instruction to be taught and learned by young children," which contains very gross errors in point of universal redemption, and in the number of the sacraments, is discharged; and printers are inhibited to reprint the same; and it is recommended to presbyteries to take special care that the said act be obeyed.—*Act Sess. eundem.*

1649. Enacted, That every minister, with the assistance of the elders of their several kirk-sessions, take course, that in every house where there is any that can read, there be at least one copy of the Shorter and Larger Catechisms, Confession of Faith, and Directory for Family Worship; and the above Act of Ass. Aug. 30, 1639, for a weekly catechising to be constantly observed in every kirk, is renewed. And it is appointed, that every minister so order their catechetic questions, that, thereby, the people (who do not convene all at one time, but by turns, into that exercise) may, at every diet, have the chief heads of saving knowledge, in a short view, presented to them. And every presbytery is ordained to take trial of all the ministers within their bounds, once at least in the half year, whether they be careful to keep weekly diets of catechising; and if they shall find any of their number negligent therein, that they be admonished for the first fault; and if, after such admonition, they do not amend, the presbytery, for the second fault, shall rebuke them

sharply; and if, after such rebuke, they do not yet amend, they shall be suspended.—*Act July 30.*

### CHAPELS OF EASE.

1779. The petitioners for a chapel of ease at Dunfermline are authorized to employ any licentiate or minister of the Church of Scotland. They shall proceed to elect on or before the 1st of May next. They are to intimate to the presbytery their resolution, and to request one of their number to preside at the election; and the presbytery is appointed to comply. If none are appointed, or if the person nominated does not attend, they are authorized to elect by themselves. If the person elected be a probationer, the presbytery is appointed to ordain him; if a minister of the Church of Scotland, it shall be competent for any of the ministers of the parish, or of the presbytery, to introduce him to the chapel. None are to be elected but such as are of the principles of the Church of Scotland with regard to worship, doctrine, discipline, and government, and who subscribe the *formula* enjoined by this church; provided the congregation shall remain subject to her jurisdiction. That the money arising from the collections regularly made at the doors of the chapel, shall be applied to the maintenance of the poor of the parish. And that before a minister be inducted into the chapel, sufficient security shall be laid before the presbytery for a sum of money not less than £50 sterling per annum, as his stipend, so long as he continues to officiate in that congregation.—*Act 8.*

1798. It is ordained, That in future, when a petition shall be laid before a presbytery for the erection of a chapel of ease, it shall lie upon the table till the next ordinary meeting; and at that meeting, unless it shall appear to the presbytery from the circumstances in which the petition is offered, that the erection of the said chapel is unnecessary and inexpedient, they shall cite the minister and kirk-session, the heritors, and, if a burgh, the magistrates thereof, within which the chapel is intended,

to appear for their interest in the subject of the petition, at their next meeting. That such presbytery, after having heard the parties, shall sufficiently ascertain the circumstances on which the petition is founded; the facts stated as reasons for the necessity or expediency of the measure; the general plan of the chapel; the estimate of the expense of building; the scheme for paying the debts that may be contracted; the plan proposed to dispose of the collections; the names and designations of the persons in whom the property is to be vested; the mode proposed for electing a minister; the stipend to be provided for him, and the security offered for its payment. That such presbytery shall thereafter report the whole above mentioned circumstances of the case, from their minutes, to the next meeting of the General Assembly, and shall not pronounce any final judgment on the petition, till they shall have received the special directions of the Assembly thereon; and that it shall be competent to the petitioners, and for all parties having interest, to be heard on the subject at the bar of the Assembly.—*Act 5.\**

## CHARITY.

1648. Collections for the poor discharged to be taken in time of divine service; and that the minister and kirk-session appoint some other way of receiving the same.—*Act Sess. 48. Aug. 11.*

1696. That no minister, kirk-session, or elder, give recommendations for charity to any, without the bounds of their own parishes; nor presbyteries, without the bounds of their presbyteries; nor provincial synods without their bounds: And that any recommendations so to be given within their respective bounds, shall be for a definite time.—*Act 19.*

1710. It is enacted and declared, That in all time thereafter, no petitions for charity shall be transmitted to, nor regarded by the Assembly, unless the petitioners

\* *Vide List of Chapels of Ease established under the enactments of this statute, in Appendix.*

produce therewith ample testimonials as to their life and conversation ; and recommendations from the synod, or presbytery of the bounds where they reside, bearing such persons to be truly objects of charity.—*Act 8.*

1711. Recommended to presbyteries, to apply to the justices of the peace, and other magistrates, to put in execution the laws respecting the poor, and vagrant beggars, and to provide work and maintenance for them.—*Act 11.*

1724. Recommended to ministers, kirk-sessions, presbyteries, and synods, to take effectual care, and use all due means, to get every parish to maintain its own poor ; and to make application to sheriffs, justices of the peace, commissioners of supply, and heritors in their respective bounds, and to magistrates of burghs, that the laws against vagrant and sturdy beggars be put in vigorous execution : And further enjoined on synods, presbyteries, kirk-sessions, and ministers, strictly to observe *Act 19, Ass. 1696.*—*Act 7.*

1728. Recommended, That a public contribution, through all the parishes of Scotland, for advancing an infirmary or hospital in Edinburgh, for the relief of the sick and wounded poor, be made upon such Lord's days as presbyteries and ministers shall think most proper : And all well disposed persons are exhorted to lay to heart the case of the poor and distressed, and, according to their ability, to contribute to their relief, by encouraging that necessary and charitable design ; and ministers are to enforce the same with suitable exhortations ; and it is appointed, that the money collected in the several parishes be put into the hands of the moderators of the several presbyteries, and by them transmitted to Edinburgh.—*Act-6.*

1731. This recommendation is renewed in *Act 7.*

1771. Appointed, That in all collections thereafter made by the act and recommendation of Assembly 1763, the brethren or presbytery, when they remit the money collected in obedience thereto, to the person named in the act for receiving it, shall transmit, at the same time, an

exact account of the several sums of money so remitted, to the clerks of Assemblies, who shall keep a book for enrolling these remittances, that the church may have thereby an opportunity of knowing the just amount of the several collections made in obedience to the Acts of Assemblies.—*Act 9.*

### CHRISTIAN KNOWLEDGE.

1708. A committee is named to receive reports from presbyteries, of the advances made in the subscriptions for propagating christian knowledge; and take notice how Acts 5, 8, Ass. 1707, have been obeyed; and synods and presbyteries are enjoined to see to the punctual execution of these two acts, and to insert an account of their diligence in their books.—*Acts 5, 6.*—(*Nota.* These acts are inserted after the index of the other acts of that Assembly.)

1709. All the people of this church are earnestly exhorted to contribute their best endeavours, in their stations, to promote the design of propagating the knowledge of Christ in the Highlands and Islands of Scotland, and in foreign parts of the world, and particularly, to give part of their substance that way; and a method is laid down for collecting subscriptions for, and contributions of money towards that design; and the commission is empowered to promote the same.—*Act 6.*

1710. The exact observation of the above Act 6, Ass. 1709, is enjoined where the same is not yet done, and presbyteries are appointed to see the same done, and to return to the secretary of the society for propagating christian knowledge, a report of their diligence; and it is recommended to the several synods concerned in the Highlands and Islands, to inquire what parishes in these bounds want schools, what parishes need more schools than one, and how many they need; what is the extent of these parishes in length and breadth: As also, what ministers have more churches or places of worship than

one, and whether these churches stand in different islands or not; and if there be a school for every kirk or island; or any persons in these places to teach children to read, or any catechists: As also, in what places popery abounds most, and where catechists will be needful: And synods are appointed to send an impartial and true account of the above particulars to the secretary of the said society, subscribed by their moderator and clerk; that the said society may have the whole matter before them, in order to the disposing of the annual rents of their stock where it is most needful; and all ministers, and other charitable persons, are seriously exhorted to put their contributions into the hands of the treasurer to the society. And that there may be the greater plenty of fit instruments to be employed in the design of propagating christian knowledge, the Assembly did again appoint the one half of the whole bursaries of all the presbyteries in Scotland, to be bestowed on hopeful and pious students, having the Irish language, for the space of four years, according to the tenor of Act 10, Ass. 1710. And the several synods are enjoined to see all the foresaid appointments put in due execution, and that they report an account of their diligence herein to the Assembly from time to time, and to the commissions of this and subsequent Assemblies: And likewise, the whole synods and presbyteries within this church are ordained to give all due encouragement, countenance, and assistance to the said society, and those employed by them, as they shall be orderly applied to for that effect, from time to time.—Act 11.

1712. Upon a long representation from the committee of the society for propagating christian knowledge, giving a distinct account of the diligence of that society, in prosecution of the ends of their erection, and the progress they had made in their work, and of the things that hindered the further advancement thereof; the Assembly renews former recommendations to the several synods, presbyteries, sessions, ministers, and charitable persons, desiring that the judicatures above mentioned would follow the method prescribed by Act. 6, Ass. 1709, and Act 11, Ass. 1710, in furthering subscriptions and contribu-

tions, and report to the society ; and the several presbyteries are strictly enjoined to report to their synods a distinct account of what they have done at any time before this, or what they shall hereafter do, in order to forward that pious undertaking, and that in the method prescribed by the said two acts ; particularly, presbyteries are appointed again to require an account of the diligence of all the ministers within their bounds in this matter, and to record their reports in their books ; and the several synods are ordained to take a particular account of the diligence of their respective presbyteries, and record it in their synod books ; and the several presbyteries and synods are appointed to send a full and distinct report of their diligence in this matter, subscribed by their moderator and clerk, in manner prescribed by the said two acts, to the commission : And the commission are appointed to give in a list of such presbyteries and synods as shall omit to send in their accounts to the Assembly ; and persons of all ranks and degrees are earnestly exhorted, according to their abilities, to contribute to the advancement of this christian undertaking.—*Act 5.*

1713. The Assembly commend the diligence of the society for propagating christian knowledge, and their committee. They recommend to all ministers and elders, and charitable persons, to concur in that work ; and again renew the acts and recommendations of preceding Assemblies to synods, presbyteries, and particular ministers, for furthering subscriptions and contributions ; and appoint presbyteries to call for an account of the diligence of ministers and sessions, in this matter, at their privy censures and parochial visitations, and record their reports in their presbytery books ; and synods are ordained, at their privy censures, to take a particular account of the diligence of their presbyteries, and record the reports of presbyteries in their books ; and synods and presbyteries to send a report of their diligence herein, subscribed by their moderator and clerk, to the commission : And the commission is instructed to call for the foresaid accounts, and see to the observation of this and former recommendations ; and lay before the Assembly



an account of such synods and presbyteries as shall neglect to send in to them reports of their diligence in this matter.—*Act 5.*

1714. Upon a representation from the committee of the society, giving an account of their procedure, the extent of their stock, the number of schools erected by them, and the success and progress of the said schools; and representing the defects of some ministers, in their way of collecting for the society; the Assembly renews former recommendations in their favours; and farther recommends to presbyteries to look for persons qualified for serving the society, as schoolmasters; and to send an account of them, with certificates in their favours, to the society, or their committee: And a committee is appointed, to meet with the said committee of the society, and advise jointly what further may be done for the society's benefit, and by the society, for fully satisfying all persons of the fairness and exactness of their management; upon whose report the Assembly found the said society as well secured against the danger of future events as any society can be; and they empowered their commission to appoint public intimations to be made in all the churches, of an additional representation of the further progress and success of the society, which the committee of the society were preparing.—*Act 13.*

1715. Upon the petition of the committee of the society, the Assembly recommends a public collection at all the church-doors in Scotland, upon such days as the several presbyteries and magistrates of burghs shall think fit, for buying books to the society's scholars, and settling more schools; and former recommendations in favours of the society are renewed; and the same are appointed to be read in these congregations, where they have not yet been done.—*Act 12.*

1716. Upon a supplication from the committee of the society, the Assembly renewed the recommendation of the last Assembly for a collection, and appointed a new day for it; and the money is ordered to be lodged in the hands of the moderators of the several presbyteries, who are to keep exact accounts thereof, and to send the money

with the copy of the accounts, to the society's treasurer : And all ministers and others, who had not paid in the money they had subscribed for, are desired to send in the same to the treasurer, and the execution of the above recommendation is remitted to the several presbyteries, who are to report their diligence both to their synods and to the commission.—*Act 4.*

1717. Upon a representation from the committee of the society, of the success of the collections recommended by former Assemblies, and of the society's schools, the Assembly enjoin the visitors of synod books, to take special notice what care synods have taken, in calling presbyteries to an account of their diligence, in promoting the said collections ; and to lay an account thereof before the Assembly : And the Assembly again recommend to deficients yet to send in their money to the treasurer of the society ; and to ministers entered to parishes since the date of the said recommendations, not only to contribute themselves, but to set about collecting in their parishes ; and it is again recommended to all ministers and members of this church, to give all manner of encouragement to that charitable undertaking.—*Act 4.*

1719. Upon a recommendation from the committee of the society, giving an account of their method of management, and success of their endeavours, that their stock was now upwards of £7000 sterling ; and that they have forty-two schools in the places mentioned in the representation, but that yet more were demanded than their present stock would afford ; and therefore entreating, that former recommendations in favour of the society might be renewed ; and offering their assistance in managing what the Assembly should bestow of the church's money, upon the fund of the equivalent, for maintaining charity schools : The Assembly appointed the excrescence of that money, after payment of the church's debts stated upon that fund, to be lodged with the society, for erecting schools in the Highlands and Islands ; and all former recommendations in the society's favours are renewed ; and the society and committee are thanked for their care and faithful management of their trust.—*Act 5.*

1727. Upon another representation from the committee of the society, setting forth their method of management, and the success of their endeavours; that they had eighty schools, but that their charges were beyond their income, and that they had been obliged to sink some of the schools in places where they were much wanted; it is seriously and earnestly recommended to all presbyteries to enquire diligently at kirk-sessions and ministers within their bounds, how the recommendations of former Assemblies, with respect to donations, subscriptions, and collections for the above purpose, had been obeyed: And such ministers as have not, are ordered to collect immediately; and to endeavour to persuade the charitable to contribute: And presbyteries are appointed to enjoin kirk-sessions to give an account to them of what has been collected within their parishes for the society since the year 1709; and to keep distinct minutes of their proceedings until full reports are made to them from the parishes within their bounds; and then to transmit them, with a list of subscribers who are yet deficient, to the anniversary meeting in January next. And it is recommended to synods, to call presbyteries to an account of their attention in this matter, and report their own diligence to the next General Assembly. And this act and recommendation is appointed to be sent to all the parishes in Scotland, to be read from the pulpits on the first Sunday of August next.—*Act 9.*

1728. Upon a memorial from the society, the recommendation of last Assembly is renewed; and the commission is instructed to take care that the recommendation be executed; and synods and presbyteries are enjoined to send up to the commission, and to the Assembly, an account in writing of their diligence, with a list of deficiencies in contributing within their several presbyteries.—*Act 5.*

1729. Upon a petition and representation from the society, the former recommendations to deficients are renewed. And it is recommended to any minister of this church, whom the society shall invite, yearly to preach a sermon, at their anniversary meetings, suitable to the

occasion. And it is recommended to presbyteries, where the society's schools are settled, to visit them frequently, and give them all encouragement, and to report to the society the state of their charity schools, according to the rules laid down by them in the printed state of the society.—*Act 4.*

1732. Upon a petition from the society, setting forth their management and success; that they had 105 schools, and about 4146 scholars; that Dr. Daniel Williams had given them a large sum for propagating christian knowledge in Scotland, and had also mortified land to the value of £68 sterling, per annum, to be given to them when they have three qualified missionary ministers to remain in foreign infidel countries; it is recommended to presbyteries and ministers to deal with charitable christians in their bounds; to contribute for promoting christian knowledge, both at home and abroad: And ordained, That intimation of this be made from the pulpits of all the churches in Scotland, on or before the first Sabbath of August next, that such as have a mind to promote this design may give in their contributions to their ministers, or transmit them to the society's treasurer, with a signification how they incline to have their donations bestowed.—*Act 4.*

CITATION.—*Vide* Form of Process, cap. 2, vol. i, of Compend.

#### COMMISSIONS TO REPRESENTATIVES IN ASSEMBLIES.

1694. That commissioners from presbyteries, and others, give in their respective commissions to the clerk of the General Assembly, the night at least before the first diet or meeting thereof; to the effect the rolls may be timeously made up, and that the commissions may be considered by the Assembly, without any interruption through the making of the rolls; and that any such

commission as may happen to be undelivered before the said first diet, shall only be delivered in the intervals betwixt the after diets, and no ways in presence of the Assembly while actually sitting.—*Act 4.*

1695. It is recommended to the several presbyteries of this national church to keep a uniform method; as near as can be, in granting commissions to the members of the General Assembly, and not to insert particular instructions in their commissions: And for the better attaining the end foresaid, there is a form prescribed for a directory by Act 8, Ass. 1695; which, with the several additions and alterations made thereto by subsequent Assemblies, is inserted *infra*.

1704. That all commissions to ministers and ruling elders from presbyteries, universities, and royal burghs, to subsequent Assemblies, bear, that they have subscribed the Confession of Faith of this church, according to Act 11, Ass. 1700. And sicklike, that no minister or elder be nominated or commissioned to be a member of the General Assembly of this church, by any presbytery, burgh, or university, but such as usually reside in, or have a relation to the presbytery, burgh, or university they are commissioned from.—*Act 6.*

1720. Ordered, That presbyteries, in giving commission to their representatives, testify that ministers have signed the *formula* prescribed by Act 10, Ass. 1711, and ruling elders the *formula* prescribed by Act 11, Ass. 1694. But if presbyteries be uncertain whether the elders have signed the said *formula* or not, then the attestation shall bear, That they are either to sign it in presence of the Assembly, or instruct that they have done it before.—*Act. 4.*

1722. It is ordained, That in all time coming, the commissions given by the universities to their representatives in the Assemblies of this church, as well as those given by presbyteries to theirs, shall expressly bear, That the commissioners therein named have signed the Confession of Faith, with the *formula*, according to Act 11, Ass. 1700, and acts therein specified, under the certification therein declared.—*Act 10.*

1723. It is appointed, that the rules and forms prescribed by Act 8, Ass. 1695, Act 6, Ass. 1704, Act 9, Ass. 1718, and Act 4, Ass. 1720, in commissions from presbyteries to their representatives in the General Assembly, be strictly observed in commissions to be given to representatives of universities and royal burghs; and it is appointed, That all commissions to the members of the General Assembly, whether from universities or royal burghs, and attestations of the same, shall be conceived in the terms prescribed by the former acts above mentioned, *mutatis mutandis*.—Act 7.

1724. It is appointed, That the presbytery's attestation and approbation of all commissions from universities and royal burghs to their representatives in the Assembly, shall have the following clause, viz.—“And further, that the said commissioner is every way qualified to be a member of Assembly, according to the acts of Assembly.” And that all commissions given to ruling elders, shall bear this clause, viz. “And in particular, that the said elders are qualified in all respects, according to what is required by Act 9, Ass. 1722.”—Acts 4, 9.

1744. It is recommended and enjoined on presbyteries in time coming to take care that all commissions be in due form, according to the acts of Assembly; and in order to this, that they be at all due pains to get themselves informed, that the elders sent up by them to the Assembly, or attested by them, as sent up by burghs, be qualified in these terms: And it is recommended to sessions to take all proper care to ordain only such to be elders as they know to be thus qualified.—Act 6.

1768. Ordered, That the forms of commissions and attestations subjoined be observed by presbyteries, kirk-sessions, universities, and burghs; and enacted, That all such commissions and attestations as are not conceived and attested in the very words of the form now prescribed, shall be rejected: And it is declared, That when a kirk-session or presbytery refuse their concurrence or attestation to a commission by a burgh or university, without assigning the reasons of their refusal, that commission shall be sustained as if duly attested, in case the matter

shall be brought before the Assembly by protest and appeal.—*Act 4.*

1770. It is appointed, That in the form for those universities, to which the words of the present form do not agree, in place of these, the words shall be as contained in Act 8, Ass. 1726, viz. “A meeting of the university of — being convened betwixt the hours of,” &c., and in like manner in the form of an after election.—*Act 7.*

1807. Enacted and appointed, that in future all commissions from presbyteries and burghs, be printed by the printer to the church, and under the superintendence of the clerks of the Assemblies, agreeably to the forms now authorized by the General Assembly, with necessary blanks for names, designations, dates, and qualifications; and the expense defrayed out of the funds of the church: That a sufficient number of these blank commissions be forwarded by the clerks of Assemblies to the clerks of presbyteries and burghs, as soon as these commissions can be printed; and that they be supplied from time to time, as occasion may require, upon making demand to that effect: That although every commission from a presbytery must contain the names of all the persons chosen to represent that presbytery, yet that it shall be competent for each of the delegates to require from the presbytery a regularly attested copy of the commission, which the presbytery must furnish upon its being demanded in due time: It being understood, that only one copy of the attested commission from each presbytery be required by the assembly in making up the roll of its members: Provided, that if a commission have been given in to the clerk for that purpose, in any respect defective or erroneous, it is competent for any other of the delegates from the presbytery to give in another commission from his presbytery, if he any has, which, if accurate, shall be sustained: And as it may happen that the clerks of presbyteries, especially those in remote parts of the country, may not be in possession of such printed commissions as may be wanted, appointed, that in such cases, the commission be written out according to the forms and usage of the church, previous to the date of this enactment.—*Act 8.\**

\* *Vide* “Forms of Procedure,” voce “Commissions.”

## COMMISSIONS OF ASSEMBLIES.

1642. A commission is granted to John Lord Maitland, to present the Assembly's supplication to his majesty, and their directions to the commissioners from Scotland at London, with their declaration to the parliament of England, and their answer to the English minister's letters. And he is appointed to report an account of his proceedings to the commission of that Assembly.—*Act Sess. 11, Aug. 5.*

A commission is granted to the ends mentioned in the act, and particularly with power to use all lawful and ecclesiastic ways to advance unity in religion, and uniformity in church government betwixt the kingdoms; and to prepare draughts of a confession, catechisms, and directory for worship; and for keeping a correspondence betwixt the kirks of this island, &c.—*Act Sess. 12, Aug. 5.*

A commission is given to some ministers to go to Ireland by turns, to visit, comfort, and instruct the scattered flocks of Christ there, and to try and appoint such as shall be found qualified for the ministry.—*Act Sess. 13, Aug. 6.*

1643. A commission is given to some ministers and elders, appointing them to repair to England, and to deliver the papers therein mentioned; and empowering them to propound, consult, treat, and conclude with the parliament and assembly of divines in England, or any committees or commissions deputed by them or by parliament, in all matters which may further the union of this island in one form of kirk government, &c.—*Sess. ult. Aug. 19.*

A commission is granted for furthering the work of reformation, to enjoin the subscribing of the solemn league, in case England agree thereto; to call an Assembly, *pro re nata*, if need require; and to correspond in the Assembly's name with foreign reformed kirks, &c.—*Eo. die.*

1644. The two commissions above mentioned, Aug. 19, Ass. 1643, are renewed; and more ministers and elders added to the last.—*Act Sess. 6, June 3.*

1645. The above commissions 1642, 1643, and 1644, are again renewed.—*Act Sess. ult. Feb. 13.*



1646. The whole former commissions are again renewed.—*Act Sess. ult. June 17.*

1647. They are again renewed by *Act Sess. 28, Aug. ult.*

1648. A new commission is granted for the ends mentioned in this act; and in general, the commissioners are empowered to do every thing for preservation of the established doctrine, discipline, worship, and government of this kirk; and for prosecuting the work of uniformity in religion in all his majesty's dominions.—*Act Sess. 39, Aug. 11*: And the commissions granted by preceding Assemblies for prosecuting the treaty of uniformity in religion, with the parliament and assembly of divines in England, are again renewed.—*Sess. eadem.*

1649. Another commission is granted to some ministers and elders for the same ends with that granted by Ass. 1648; and further empowering them to send commissioners to England for prosecuting the treaty of uniformity.—*Act Sess. 40, Aug. 4.*

1690. Some ministers and elders are appointed for visiting the whole presbyteries on the south side of Tay, and for other ends mentioned in Acts 15 and 16.

Another commission is granted for visiting the whole presbyteries on the north side of the Tay, and to plant, try, and purge in manner mentioned in Act 17.—*Sess. eadem.*

Messrs. Gilbert Rule and David Blair are appointed to attend the king's majesty about the affairs of this church; and their instructions, and what other things concern their journey, are referred to the foresaid commission, for visiting the south side of the Tay.—*Act 18, Sess. eadem.*

1694. Some ministers and elders are appointed a commission to discuss all references and appeals, and other matters referred to them, conform to the instructions given to them (Act 18), and to meet the day after the dissolution of Assembly.

1696. And commissions granted to the same effect, to proceed conform to the instructions given to them in *Acts in annis 1697, 1698, 1699.*

1700. A commission is granted for visiting the bounds of the provinces of Angus and Mearns, Aberdeen, Murray, and Ross; and for purging and planting churches, redressing grievances, and trying persons disseminating erroneous principles, and heretical doctrines.—*Act 12.*

Another commission is granted to four ministers and an elder to visit Zetland, Orkney and Caithness.—*Act Sess. eadem.*

Another is granted for planting vacant churches in the north; and other affairs referred to them, and contained in their instructions.—*Act 19.*

A commission is granted for visiting the presbytery of Middlebee; and to endeavour to remove the grievances there.—*Act 23.*

1701. Another for planting vacant kirks, is granted by *Act 15.*

1702. Upon the news of King William's sickness, a committee is appointed to name members of a commission, and to draw instructions to them.—*Act 4.*

1702. Another for planting vacant kirks, is granted by *Act 7.*

1703. Another, wherein the quorum is augmented to twenty-one, fifteen whereof to be ministers, is given by *Act 3.*

1704. Another by *Act 19.*

1705. Another by *Act 13.*

1706. Another of the same tenor, by *Act 17.* The fixed meetings of this commission are only to be twice in the year, viz. the first Wednesday of August, and the penult Wednesday of March; and in this commission the instructions given by the preceding Assembly are held as repeated; the attendance of members strictly enjoined; lists of absents ordered to be sent to the synods, in order to censure; and also to be laid before the next Assembly.

1707. A commission is granted of the same tenor with former ones, by *Act 12.*

1708. Another is granted by Assembly 1708; wherein the general clause in former commissions, empowering them to advert to the interests of the church on all occasions, is cautioned with a provision, that the said power

shall not be extended to particular affairs, or processes before presbyteries or synods, that are of universal concern to, or influence upon the whole church; and the presbytery of Edinburgh, and other presbyteries within twelve miles of Edinburgh, are discharged to meet on any of the diets appointed for the meetings of the commission.—*Act 8.*

1709-10. Commissions of the same tenor with the former, are granted by Act 9, and Act 14.

1711. A commission of the like tenor with the former, is granted by Assembly 1711; only their quorum is augmented from twenty-one to thirty-one, whereof twenty-one are always to be ministers: And it is declared, that what shall be determined at one diet, shall be unalterable by any other diet of the commission, and shall stand and continue in force, until disapproved of by the Assembly; and presbyteries at the distance of more than twelve miles from Edinburgh, who have four or more members on the commission, are to take care that at least two of them attend each diet.—*Act 8.*

1712. Another commission of the tenor with the former, is given by Assembly 1712, only this commission is made to endure, not to the next Assembly only, as is ordered in all the preceding commissions, but until another commission be appointed.—*Act 8.*

Other commissions of the same tenor with that immediately preceding, are granted in *annis* 1713, 1714, 1715, 1716.

Other commissions are given by Acts in 1717, 1718, 1719, 1720, but here the instructions given by former Assemblies are renewed, as instructions to these commissions. This last commission is further-appointed to enquire into the publishing and spreading of books and pamphlets tending to diffuse the condemned propositions, and to call the recommenders of them before them; and they are impowered to judge in cases of doctrine, and appointed to take care that the impressions of the holy scriptures, confession of faith, and catechisms, and other books relating to the doctrine, worship, discipline, and government of this church, be correct.—*Act 11.*

1721. Another commission is granted with powers and instructions as the above; with this addition, that they consider the representation respecting the book entitled, the Marrow of Modern Divinity, and all the representations concerning the growth of popery and Jacobite meetings within the bounds of the church.—*Act 4.*

1722. Another commission is given with the powers and instructions of 1720; with the addition of appointments to consider all representations concerning the growth of popery, and of meeting-houses not authorized by law; and to apply to government for redress.—*Act 8.*

1733. Other commissions, with the powers and instructions of 1722, are given from that year till 1733 inclusive.

1734. Another is granted with the former powers and instructions; and with the recommendation, that they shall at their first meeting discuss as many causes relative to the settlement of vacant churches as they can overtake; and with the provision, that when any presbytery or synod shall decline to comply with the sentences of the commission; or to give them a full execution, in that case, the commission is prohibited to execute the same by appointing any correspondent meetings, but they are to allow the matter to lie over to the ensuing Assembly; to which such presbyteries and synods shall be answerable for their conduct; who are appointed to send up, with their commissioners, their reasons for the same.—*Act 7.*

1735. Other commissions are given all the above powers and instructions in *Act 5. Ass. 1735*; and the addition, that if a favourable opportunity occur, they are to make a due application to the king and parliament for redress of the grievance of patronage.—*Act 11. Ass. 1736*: And also with the appointment of their keeping a correspondence with the committee for reformation in the Highlands and Islands; and to give them assistance and concurrence in their work.—*Act 4. Ass. 1737*: And likewise with the appointment, that in passing sentences, and ordering the execution of them, they strictly observe *Act 12. Ass. 1736.—Act 8. Ass. 1739.*

Commissions are annually given with all the powers

and instructions contained in the above Acts till the year 1761, when there is an appointment to observe particularly Act 7, Ass. 1712, and Act 8, Ass. 1719, and 1784 a discontinuation of the instruction recorded in Act 11, 1736. From that time there seems to be no alteration; but the same powers and instructions are renewed from year to year.

### COMMISSION MEMBERS.

1703. Members of the commission are required and ordained to give all the due attendance thereon, as they shall be answerable; and the several presbyteries are enjoined to send up such of their number as are members thereof, to each quarterly meeting of the same; and the clerks of the commission are ordained to record lists of the absents from each quarterly meeting, and from the meetings in time of parliament (without a reasonable excuse), or who shall go away therefrom without leave first obtained, and send an extract of their names to their respective synods, who are impartially to enquire into the reasons of their absence, and to censure them as they shall see cause, and make report thereof to the General Assembly; and to this effect, the clerk of the commission is ordered to lay before the Assembly the lists of the absents: And it is recommended to presbyteries, to supply the charges of the ministers who are members of the commission during their attendance thereon.—*Act 6.*

1704. It is recommended to the several presbyteries, to send in their advice anent regulating the commissions of the General Assemblies; and especially in the particulars mentioned in the act; and to choose the wisest, gravest, and most experienced of their number, to represent them in the next Assembly.—*Act 16.*

1705. It is appointed and ordained, That in time coming, the whole presbyteries of this national church be equally represented in commissions of the General Assembly; and that their representation be proportional to the number of ministers that are in each presbytery, the old

ministers who were ordained before the year 1662, being always supernumerary: And sicklike, that two or three of the members of the General Assembly in each synod be appointed as a committee, to name the members of the commission; and that the whole representatives of presbyteries, in the several synods, at the Assembly, do meet by themselves, and name their respective members of the said committee. And it is declared, That it shall be free to any member of the Assembly to attend the said committee, if they think fit: And it is appointed, That the expense of the said commissioners be borne and defrayed by the several presbyteries which they represent, according to the number of the days of their attendance; and that their presbyteries take care to supply their charges with preaching, during their absence on the said account; and that such as shall be absent from the said commissions, or diets of the same, without a reasonable excuse represented to, and admitted by the commission, be censured by their respective synods; and that the clerk of the commission send lists of these absents to the several synods for that end, according to the above mentioned Act 6. Ass. 1703.—*Act 6.*

1705. The several presbyteries are appointed to be careful to send one at least of their number, who are members of the commission, to attend the meetings thereof by turns, and to send in to the commission the names of such as they have appointed to attend the several diets thereof; that those who are negligent in this matter may be censured, according to former acts of Assembly thereanent.—*Act 15.*

1719. It is resolved and appointed, That all members of the commission of this and subsequent Assemblies be qualified according to the acts of Assembly, particularly Act 9, Ass. 1718, before they vote or act as such.—*Act 6.*

1736. It is enacted, That thereafter the committee for naming the members of the commission, be appointed to observe that due proportion betwixt ministers and elders which obtains in the Assembly; and that care be taken by them, that such as are to be superadded to the nomination, be in time coming named from the several presby-

teries or burghs, which they are to represent in Assemblies; and that such others of them alienarily be superadded, who cannot be named as above; and that this may be evident to the members of the Assembly, the clerks be appointed to extend the rolls in the same order as the rolls of the Assembly: That when any presbytery does not comply with the sentences of commissions, relating to the settlement of ministers, or shall not give the same a full execution, in that case the commission be discharged to execute the same, by appointing any correspondent meetings, but shall allow the matter to lie over till the ensuing Assembly: And if any presbytery refuse to obey the sentences of the commission, they are required to give their reasons to the next General Assembly, to which they are to be accountable for their conduct therein; and they are declared to be *ipso facto* sisted before the then next General Assembly.—Act 12.

1754. This last clause, by Act 6, Ass. 1754, is extended to sentences passed by the General Assembly, and not obeyed by presbyteries.

1742. It is enjoined on presbyteries to observe Act 6; Ass. 1703, and Acts 6 and 15, Ass. 1705, for the better attendance of members on the meetings of the commission, and that presbyteries read over these acts at their first meetings after the Assembly, and enjoin the observation of them on their members; and that presbyteries after every quarterly meeting of the commission, take account of the attendance of their members; and enquire into the reasons or excuses of such as have not attended, and censure such as have been absent without sufficient cause.—Act 5.

### COMMISSION BOOK.

1643. The books and registers of the actings and proceedings of the above-mentioned commissions of Assembly are ratified and approved by the Assemblies succeeding to each commission, as follows, viz. The proceedings of the commission of Assembly 1642 are approved by Act Sess. 7, Aug. 9.

1645. The proceedings of the commissions of the General Assemblies 1643 and 1644 approved by *Act Sess. 5, Jan. 28.*

1646. The proceedings of the commissioners of Assembly 1645 approved by *Act Sess. 10, June 13.*

1647. The proceedings of the commission of Assembly 1646 approved by *Act Sess. 22, Aug. 26.*

1648. The proceedings of the commissioners of General Assembly 1647, especially their declarations, remonstrances, representations, petitions, vindications, and other papers relating to the engagement in war against England, and their judgment of the unlawfulness thereof, approved by *Act Sess. 7, July 18.*

1649. Commission book 1648, by *Act Sess. 4, July 7.*

1649. The proceedings of the commissioners sent to England and to his majesty are approved by *Act Sess. 6, July 10.*

1696. The proceedings of the commissioners of Assemblies 1690 and 1694 are approved by *Act 16.*

1697. The commission book of 1696 approved by *Act 15, Ass. 1697*; that of 1697, by *Act 10, Ass. 1698*; that of 1698, by *Act 12, Ass. 1699*; that of 1699, by *Act 8, Ass. 1700*; and that of 1700, by *Act 5, Ass. 1701.*

1701. The proceedings of the commissioners sent to Zetland, Orkney, and Caithness by the said *Ass. 1700*, are approved by *Act 12.*

1701. And the proceedings of the commissioners sent by this same Assembly 1700 to Angus, Mearns, Aberdeen, Murray, and Ross, are likewise approved by *Act 13, eadem Sess.*

1703. The proceedings of the commission of Assembly 1701 are approved by *Act 7, Ass. 1703*; those of 1703, by *Act 15, Ass. 1704*; those of 1704, by *Act 8, Ass. 1705*; those of 1705, by *Act 7, Ass. 1706*; and those of 1706, by *Act 9, Ass. 1707.*

1706. No approbatory acts of the above nature are printed, because of the act appointing, That in all time thereafter the same *formula* be observed in the approbation of the actings and proceedings of the commissions of



Assemblies, that is prescribed by the acts of Assembly, to be observed in the attestation of the synod books.—*Act 8.*

## COMMISSIONS FOR REFORMATION IN THE HIGHLANDS AND ISLANDS.

1725. It is appointed and ordained, 1. That the procurator for the church receive the sum of £1000 sterling, issued by his majesty's warrant to encourage itinerant preachers and catechists to go to the Highlands and Islands of Scotland. 2. That the ministers and elders named in the act be a committee, to endure till another be nominated in their room, empowered to employ the above sum for the ends mentioned in the royal warrant; to choose their own moderator and clerk; to meet at Edinburgh upon the Fridays next after the meetings of the commissions of the General Assembly, in May, August, November, and March; with power to adjourn and to name sub-committees; nine to be a quorum, whereof six to be ministers; and to keep a record of their proceedings. 3. That they appoint itinerant preachers and catechists, duly qualified, to go to the places designed in the royal warrant, to correspond with the presbyteries where these are employed, and with the society for propagating christian knowledge, and to advise with the commission of the Assembly as there may be occasion. That these preachers and catechists be subject to, and under the inspection of the presbytery of the bounds where they are employed, who are to take care that the orders of the committee be duly observed;—preachers also to catechise; and both they and the catechists to instruct the people from house to house, to visit the sick, and carefully to teach the people the principles and duties of true christian protestant religion, and of loyalty to the king, and obedience to the laws; and the committee are empowered to give them such instructions respecting their work and behaviour as they shall judge meet; and they are appointed to obey the same. 4. That the allowance of £45 per annum be given

to a preacher, and £25 to a catechist, except in the case of sickness, losses, or other accidents. 5. The committee is empowered to appoint settled ministers within the synods of Argyle, Ross, Murray, Aberdeen, and Perth and Stirling, and the presbytery of Dumbarton, with the allowance of £4 per month, to dispense the ordinances of which preachers are incapable. Lastly, The committee are strictly to conform themselves to the terms and articles of his majesty's warrant, in the discharge of the trust committed to them. And it is ordained, That the presbyteries pointed at in the royal warrant meet as soon as possible, and draw up a state of their bounds, and send in the same to the agent for the church, to be laid before the committee.—*Act 6.*

1726. A commission is granted to some ministers and elders for reformation in the Highlands and Islands, and to manage the royal bounty for that end, with the powers and instructions given to the commission appointed by the above act: And further, they are to inquire how the ministers, preachers, and catechists named by them obeyed their appointments; to elect a cashier for receiving and giving out the king's bounty; to call for and state his accounts, and lay them before the commissioners of treasury or barons of exchequer; and likewise the committee is empowered to nominate ministers and elders, though not of their number; to meet with the protestant heritors to concert measures for advancing the interest of true religion in these countries: And which ministers and elders are ordained to join with the synods of Glenelg and the presbyteries in that synod, in their meetings, and be assisting to them as members; and that the foresaid synod and presbyteries, and others concerned, draw up and send to the committee, from time to time, informations of the state of their bounds, particularly with respect to popery and the success of their missionaries, and what discouragements they meet with.—*Act 6.*

1727. Another commission with former powers and instructions; but with the addition that they apply to the magistrates for assistance in carrying on a reformation in the Highlands and Islands; and to correspond with

presbyteries, protestant heritors, ministers, preachers, and catechists; and as much as they can to encourage ministers and protestants in these parts.—*Act 5.*

1728. Another commission is given with former powers and instructions renewed; and with an appointment for corresponding with the commission of the General Assembly, the society for propagating christian knowledge, and presbyteries and synods in the Highlands and Islands.—*Act 8.*

1729. Another, with powers and instructions as formerly; only with the alteration that seven is declared to be a *quorum*, four whereof to be ministers.—*Act 7.*

1730. Another, with former powers and instructions, and containing the following regulations, viz. That presbyteries insert in their registers the committee's appointments of the designations, salaries, and stations of the respective missionaries, and have a regard thereto in all their letters respecting them, and in giving certificates to them; that they direct their letters only to the moderator of the committee, and that these letters be signed at the appointment of the presbytery by the moderator or clerk; that no payments be made of the missionaries' salaries, except upon receipts from themselves, and upon certificates from presbyteries, bearing the time they have served, yet reserving liberty to the committee to allow a quarter's salary per advance, if found necessary; that all the committee's accounts with their cashier be duly signed and attested, and recorded in the book prepared for that effect; and that all the money disbursed in managing the royal bounty be annually stated by the committee, and laid, with their report, before the Assembly for their approbation.—*Acts 4, 6.*

*Annis* 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738. Other commissions, with former powers and instructions renewed, are given in these years.

1739. A commission is granted with former powers and instructions; and to which is added the following appointment:—That at the quarterly meeting in August, when the scheme or establishment of missionaries for the ensuing year shall be determined, fourteen shall be a *quorum*,

nine whereof to be ministers; and that none once employed and inserted in the scheme shall be struck off for that year but by the *quorum* of fourteen; and no complaint against a missionary to be determined at the first ordinary meeting, but to lie on the table till the next; and, in the meantime, the person complained of, and the presbytery wherein he officiates, are to be acquainted with the complaint.—*Act 6.*

Commissions with the whole powers and instructions in the above acts are given annually, with little alteration, from 1739 downwards.

### COMPETENCY OF JUDICATURES AND PROCESSES.

*Vide* Form of Process, caps. 1 and 2, page 142 of 1st vol. of Compend.

### CONFESSION OF FAITH.

1638. An overture, That all persons, of whatsoever state or condition, be obliged to swear and subscribe the Confession of Faith, as then condescended on by the General Assembly, under pain of censure; referred to the several presbyteries, by *Sess. 23, 24, Dec. 17, 18. Art. 11.*

It is ordained, that no sort of persons, of whatever quality or degree, be permitted to speak or write against the Confession of Faith, concluded on by this kirk, both concerning doctrine and discipline; or against that Assembly, or any act thereof, upon the pain of censure.—*Ibid. Art. 17.*

The confession of faith, and national covenant, and oath of this kirk, as renewed in February 1638, is allowed and approven in the hail heads and articles thereof; and all masters of universities, colleges, and schools, and all others who have not already subscribed the said confession and covenant, are ordained to subscribe the same,

with these words prefixed to the subscription, viz. "The article of this covenant, which was at the first subscription referred to the determination of the Assembly, being now determined at Glasgow, in December 1638, and whereby the five articles of Perth, and the government of the kirk by bishops being declared to be abjured and removed, the civil places and power of kirkmen declared to be unlawful; we subscribe, according to the determination of the said free and lawful General Assembly." And the said covenant, with that declaration, is ordained to be inserted in the registers of the Assemblies of this kirk, general, provincial, and presbyterial, *ad perpetuam rei memoriam*.—*Act Sess. 26, Dec. 20, Ass. 1638*. And, by a subsequent act of the same date, his majesty is addressed, That he would acknowledge and approve the foresaid true interpretation, by his royal warrant, to be put in record for that effect; and in the meantime the swearing or subscribing of the said confession, as wrested to a contrary meaning, by an application thereof made by the privy council, is prohibited and discharged, under the pain of ecclesiastic censure, but that they subscribe the same as in the former act.—*Ibid.*

1638. The General Assembly, by their supplication to his majesty's commissioner, and Lords of Secret Council, vindicate themselves from all disloyal designs, and solemnly swear their mutual concurrence and assistance for the cause of religion, and defence of his majesty's person and government, in the preservation and defence of the true religion, liberties, and laws of this kirk and kingdom, in quiet manner, or in arms, as they should be required by his majesty, his council, or any having their authority; and do humbly supplicate them to enjoin, by an act of council, the subscription of the confession and covenant. In answer to which supplication, the Lords of Privy Council, by their Act Aug. 3, 1639, subjoined to this act, Ordain accordingly.—*Act Sess. 23, Aug. 30, Ass. 1639*. And his majesty's commissioner declares his majesty's allowance and consent, that the covenant, with the Assembly's foresaid explanation, be subscribed throughout all the kingdom; and he, in his majesty's

name, subscribes the same, with a declaration prefixed, that the said confession is one in substance with that which was subscribed by his majesty's father in 1580, 1581, and 1590, and oftener since renewed ; and declares his majesty's consent that an Act of Assembly be passed enjoining the subscription of the same ; but subjoins a declaration that the practice of the things prohibited by the covenant, within this kirk and kingdom, out with the kingdom of Scotland, should never bind nor infer censure against the practices out with the kingdom, and desires that the same might be inserted in the register of the kirk. The Assembly refuses to give warrant for such practice, as not agreeable with a good conscience, but the same is inserted only *vocitativè*.—*Ibid.*

The confession of faith and covenant is again approven, and ordained to be subscribed, as aforesaid ; as also by all scholars at passing their degrees ; by persons suspected of papistry ; and finally, by all ministers of this kirk and kingdom ; and the parliament is supplicated by their authority to ratify and enjoin the same, under all civil pains.—*Ibid.*

1647. The confession of faith for the kirks of God in the three kingdoms, agreed upon by the assembly of divines sitting at Westminster, with assistance of commissioners from the kirk of Scotland, found to be most agreeable to the word of God, and in nothing contrary to the received doctrine, worship, discipline, and government of this kirk ; and is therefore approven and agreed unto by the assembly for their part, as a common confession of faith for the three kingdoms. And it is declared, that the not mentioning therein the several sorts of ecclesiastical officers and Assemblies, shall be no prejudice to the truths of Christ in these particulars, to be expressed fully in the directory for government, and that the Assembly understands some parts of Art. 2, cap. 31, only of kirks not settled or constituted in point of government ; and that although in such kirks a synod of ministers and other fit persons may be called by the magistrates' authority and nomination, without any other call, to consult and advise with, about matters of religion ; and although

likewise the ministers of Christ, without delegation from their churches, may of themselves, by virtue of their offices, meet together synodically in such kirks not yet constituted; yet neither of these ought to be done in kirks constituted and settled; it being always free to the magistrate to advise with synods of ministers and ruling elders, meeting upon delegation from their churches, either ordinarily, or being indicted by his authority occasionally and *pro re nata*: It being also free to assemble together synodically, as well *pro re nata* as at ordinary times, upon delegation from the churches, by the intrinsical power received from Christ, as often as it is necessary for the good of the church so to assemble, in case the magistrate, to the detriment of the church, withhold or deny his consent; the necessity of occasional Assemblies being first remonstrated to him by humble supplication.—*Act Sess. 23, Aug. 27.*

1690. That all probationers licensed to preach, all intrants to the ministry, and all other ministers and elders, received into communion with the church in its government, be obliged to subscribe their approbation of the Confession of Faith, approved by the former General Assemblies of this church, and ratified in the second session of the then current parliament.—*Act 5, June 7.* And this is recommended to the diligence of the several presbyteries, and they are appointed to record their diligence thereanent in their respective registers.—*Act 7, Art. 1.*

1699. It is recommended to all synods and presbyteries to inquire what ministers, probationers, or schoolmasters within their bounds have not subscribed the Confession of Faith, conform to former acts of the General Assembly, as the confession of their faith; that those who have not done it may be put thereto, and that there be a new impression of the Confession of Faith in *folio*, for that end.—*Act 13.*

1700. That all ministers and ruling elders, belonging to this national church, subscribe the Confession of Faith, as the confession of their faith, according to the act of Assembly 1690, and the *formula* agreed upon in Act 11,

Ass. 1694, § 6; and that this be done betwixt and next Assembly.—*Act 11.*

## COVENANT.

1639. The Covenant, and Confession of Faith, are approved, and ordained to be subscribed by all masters of universities, colleges, and schools; as also by all scholars at passing their degrees; by persons suspected of papistry; and finally, by all ministers of this kirk and kingdom; and the parliament is supplicated, by their authority, to ratify and enjoin the same, under all civil pains.—*Act Sess. 23, Aug. 30.*

1640. That such as have subscribed the covenant, and speak against the same, if he be a minister, shall be deprived; and if he continue so, being deprived, shall be excommunicated; and if he be a layman, shall be dealt with as perjured, and shall satisfy publicly for his perjury.—*Act Sess. 5, Aug. 1.*

1643. The advice of the commissioners of the General Assembly 1642, recommending to presbyteries to have copies of the covenant to be subscribed by every minister at his admission, is approved, and the covenant appointed to be printed, with the said ordinance prefixed thereto; and that every synod, presbytery, and parish, have one of them bound in *quarto*, with some blank paper, whereupon every person may be obliged to subscribe; and that the covenants of the synods and presbyteries be kept by their moderators *respectively*; of universities, by their principals; and of parishes, by their ministers, with all carefulness; and that a particular account of obedience to this act be required thereafter in all visitations of parishes, universities, and presbyteries, and in all trials of presbyteries and synods: And all ministers are ordained to make intimation of the Act of Assembly at Edinburgh, Aug. 30, 1639, enjoining all persons to subscribe the covenant, under all ecclesiastical censure, in their kirks, and thereafter to proceed with the censures of the kirk against such as shall refuse to subscribe the covenant; and



that exact account be taken of every minister's diligence therein by their presbyteries and synods, as they would answer to the General Assembly.—*Act. Sess. 6, Aug. 8.*

1643. The resolutions of the committees of the convention of estates of Scotland, of the General Assembly, and of the commissioners of the two houses of the parliament of England, that the form of the covenant to be entered into by both nations, then condescended on, and agreed amongst them, should be presented to the General Assembly, to the convention of estates of Scotland, and to the two houses of the parliament of England, by their respective committees and commissioners, that it might, with all speed, receive their respective resolutions, is narrated in *Act. Sess. 17, Aug. 17.*

The covenant is unanimously approved and embraced by the Assembly, as the most powerful mean, by the blessing of God, for settling and preserving the true protestant religion, and the peace of his majesty's dominions, and propagating the same to other nations, and for establishing his majesty's throne to all ages and generations; And it is recommended to the convention of estates, that being examined and approved by them, the covenant may be sent with all speed to the kingdom of England, that being received and approved there, it may be with public humiliation, and all religious and answerable solemnity, sworn and subscribed by all true professors of the reformed religion, and all his majesty's good subjects in both kingdoms.—*Ibid.*

1644. That all ministers take notice when any person disaffected to the national covenant of this kirk, and to the solemn league and covenant of the three kingdoms, shall come within their parishes, and so soon as they shall happen to know the same, that without delay they cause warn them to appear before the presbyteries within which their parishes lie, or before the commissioners of the General Assembly, as they shall find most convenient; and which warning is declared a sufficient citation; and that ministers and elders delate to the said judicatories *respectively* every such disaffected person, although without their own parish, so soon as they shall hear and be

informed of them ; and the commission is ordained, not only to proceed to the trial and censure of such disaffected persons, but to take a special account of the diligence of ministers, elders, and presbyteries therein *respectivè*.—*Act Sess. 6, June 3.*

1647. That all students of philosophy, at their entry, and at their laureation, be held to subscribe the league and covenant, and be urged thereto, and all other persons as they come to age and discretion, before their first receiving the sacrament of the Lord's supper.—*Act Sess. ult. Sept. 1.*

1648. That all young students take the covenant at their first entry to colleges, and that all persons whatsoever take the covenant at their first receiving the sacrament of the Lord's supper ; and that all provincial assemblies, presbyteries, and universities, be careful that this act be observed, and that account thereof be taken in the visitation of universities and particular kirks, and in the trial of presbyteries.—*Act Sess. 31, Aug. 7.*

## DECLARATION.

1642. The declaration of the parliament of England, shewing their desire to have an uniformity in church government betwixt the kingdoms, and the Assembly's answer thereto, pressing the same from several arguments, motives, and encouragements, are recorded in *Sess. 8, Aug. 3.*

1644. The declaration subscribed by the Scotch Lords at Oxford is condemned as a perfidious bond and an unnatural confederacy ; and the subscribers thereof, or of the like declaration or bond, or any that were accessary to the framing or execution thereof, are declared to deserve the highest censure of the kirk ; the commission is empowered to execute this act by themselves, or to refer the same to presbyteries or synods, as they should think convenient ; and they are discharged to relax the delinquents from the sentences that should be pronounced against them, without the advice of the Assembly, or

commissioners thereof, *nisi in extremis*; and it is also recommended to the parliament exemplarily to punish the guilty, and to put some public note of infamy upon the declaration or bond itself.—*Act. Sess. 6, June 3.*

1645. The declaration and remonstrance of the General Assembly to King Charles I., publicly professing their loyalty and faithful subjection; and, in testimony of the tenderness and uprightness of their affection to his majesty's true happiness, humbly and faithfully representing to him his great and growing dangers from the displeasure of his provoked people, and most of all, from the guilt which cleaveth fast to his throne; particularly, the several sins mentioned in the remonstrance, and which would involve him under the wrath of the everlasting God, if not timely repented of; and therefore exhorting him to serious repentance; shewing him that what they had concluded concerning uniformity in religion between both kingdoms, was to be humbly offered to him from the commissioners of this kingdom, for his royal assent and ratification; declaring their dutiful procedure in that Assembly, as if his majesty had vouchsafed them his own, or the presence of his commissioner; and praying that God would graciously incline his heart to counsels of peace and truth, and grant him a long and happy reign.—*Sess. ult. Feb. 13.*

1647. A declaration and brotherly exhortation of the Assembly to their brethren in England, rehearsing the several advances made in the work of reformation in both kingdoms, lamenting the stop then made thereto in England, and the imminent dangers of the common cause of religion, by the spreading of dangerous errors and sects, aggravated by the breach of covenant, in many particulars mentioned in the declaration; and especially, in offering violence to the rights, privileges, and authority of the magistracy; complaining of several of the proceedings of the army in summer 1647, in so far as religion is concerned; especially, that their proposals for the settling of peace, are, in point of religion, inconsistent with the solemn league and covenant, and propositions of peace formerly agreed on by both kingdoms, in the particulars mentioned in that declaration; beseeching the people of

England, of all ranks, who have entered into the league and covenant with Scotland, and particularly, the houses of parliament, city of London, and assembly of divines, to be humbled for the sins of the land, especially breach of covenant, to hold fast the profession of their faith, to continue constant and zealous in advancing reformation, in suppressing heresy and error, according to the covenant; and promising the same on their part, by the grace of Christ; particularly desiring that presbyterial government may be settled, and put in practice throughout that kingdom. Lastly, declaring that their zeal for the covenant and presbyterial government doth not abate or diminish in any thing their loyalty and duty to the king's majesty, wherewith their enemies falsely reproach them, but doth much strengthen and support the same; and concluding with a prayer for a safe and well-grounded peace to God's people, is recorded in *Sess. 15, Aug. 20.*

1648. In answer to a paper of the 24th July, delivered to the General Assembly from the conference (compared with another paper of the 17th of July, presented to them from the committee of estates, whereunto it relates, and with the declaration emitted by that committee to the parliament and kingdom of England) supposing that the Assembly might be satisfied in point of the security of religion, notwithstanding of the engagement in war against England; it is declared, that the Assembly sees no possibility of securing religion, as long as that unlawful engagement is carried on, religion being thereby greatly endangered. The ways mentioned in the answer, see more fully in *Sess. 14, July 25.*

1648. The declaration and act of parliament of the date, June 10, and an act of the committee of estates of the date July 12, said year, ordaining all the subjects, by subscription, to acknowledge as just, and oblige themselves to adhere unto the said declaration, and to join and concur with their persons and estates, in the assistance of the execution and observation of the acts and constitutions of that parliament, under the certification mentioned in the said act of the committee, is declared unlawful and sinful, for the reasons mentioned in this act

of Assembly; and the members of this kirk are warned and charged to forbear the subscribing the said act and declaration, or urging thereof, as they would not incur the wrath of God, and censure of the kirk: And are likewise enjoined to forbear the swearing, subscribing, or pressing of any new oaths or bonds in that cause, without advice and concurrence of the kirk, especially any negative oaths or bonds, which may any way limit or restrain them in the duties whereunto they are obliged by the national, or solemn league and covenant, with certification as aforesaid; and such as have already been guilty in this matter, are exhorted to repent; and the execution of this act is remitted to presbyteries, or in case of their negligence, or being overawed, to provincial synods, or commissioners of Assembly; and for that end, it is appointed to be sent to the presbyteries to be published in the several kirks of their bounds.—*Act Sess.* 18, *July* 28.

A declaration by the General Assembly, concerning the dangers of religion, especially the engagement in war against England, which is declared sinful and unlawful, for the many reasons mentioned in the said declaration, containing many exhortations and directions to all the members of the kirk, shewing the Assembly's sense of the duties of the present time, and of the said dangers; particularly, from the sins of the land, the insolence of the army, and encroachments made upon the liberties of the kirk, in the many instances mentioned in that declaration; and earnestly exhorting, charging, and requiring ministers, 1. To search into, and mourn for the sins of the land, especially breach of the solemn league; 2. To honour and respect authority, with a due subordination to the will of God; 3. To avoid malignancy on the one hand, and sectarianism on the other, both which are characterized by several marks in this declaration; 4. Not to concur or assist in the engagement; 5. Nor suffer themselves to be abused with the fair pretences of those that carry it on; 6. That they mistake not the nature of the reformed religion or government of the church, as if it were inconsistent with the king's prerogative, privileges of parliament, and liberties of the nation; 7. That they

beware of the taking of oaths, or subscribing of bonds relating to the covenant, unless approven by the Assembly, or commission; 8. That they live by faith, and continue steadfast; and 9. That they remember that no law or authority can absolve them from the obligations of the solemn league and covenant; that ministers be free and faithful in their preaching, as they would escape the censures of the kirk, which presbyteries are appointed to inflict; and all civil judicatures and persons in power are exhorted to remember they are to give an account to God, and that they ensnare not the consciences of their brethren with new oaths and bonds.—*Sess. 21, July ult.*

Another declaration of that Assembly to their brethren of England, blessing God for the uniformity in religion, and lamenting breach of covenant, shewing that the generality of the church judicatories, and many others of the nation, had dissented from, openly declared, supplicated, and protested against the engagement, shewing that they still continued steadfast in the covenant, and expect the same from England; they exhort them to repent of their sins, particularly breach of covenant, in complying with sectaries, and their slow progress in reformation; they dehort the parliament of England from complying either with sectaries or malignants; they shew their abhorrence at the purposes of those who mind the subversion of monarchical government, which they wish may be continued in his majesty's person and posterity; they manifest their dislike of those who deal so hardly with his majesty's person, and shew their desire of having the king restored to the exercise of his power, upon his giving security for religion, and for establishing and enjoining the covenant in all the three kingdoms, is recorded in *Sess. 22, Aug. 1.*

In answer to a paper sent from the committee of estates, dated July 28, 1648, the Assembly refer to their answer of the 25th July 1648: And further add, that they think it strange, that the state had engaged in war with England before the necessity and lawfulness thereof was cleared, and before the church's desires for the security of religion were granted, according to the assurances

given by public declarations, and after public resolutions and declarations to the contrary. And they further refer to their declaration, July ult. Sess. 21, 1648, shewing the unlawfulness of that engagement itself; which declaration they vindicate, and demonstrate the church's interest in undertakings and engagements in war, as to the lawfulness or unlawfulness thereof, to satisfy the committee of estates their desire in that point.—*Sess. 22, Aug. 1.*

A pamphlet falsely entitled, “The Declaration of Mr. Alexander Henderson, principal minister of the word of God, at Edinburgh, and chief commissioner from the Kirk of Scotland, to the parliament and synod of England, made upon his deathbed,” is found to be false, and condemned as forged and scandalous; and the author and contriver of the same is declared void of charity and a good conscience, and a gross liar and calumniator, led by the spirit of the accuser of the brethren.—*Act Sess. 31, Aug. 7.*

1649. Declaration and brotherly exhortation from the General Assembly to their brethren in England; wherein they acknowledge God's mercies to both kingdoms, and their own sins; they regret the interruptions put to the work of reformation, especially by those in power and place in England; they declare their sympathy with, and commend the singleness and boldness of those in England who suffer for the truth; they warn all such as have forgotten the covenant, and despised the oath of God, and wholly overturned the fundamental government by king and parliament, to repent, and not to judge their cause right because of their success; they threaten them, that God will bring down their pride and power; they declare, that the duties contained in the covenant are moral and lawful, and the engagements therein, not only moral, but personal, and which cannot be dispensed with; they bear testimony against the toleration in England, and comfort God's people with this confidence, that God would yet revive his work.—*Sess. ult. Aug. 6.*

1712. The declarations and representations made by the commission of Assembly 1711, to Queen Anne,

against the acts of toleration and patronage, are approved as most faithful and seasonable; and the representations are, by order of the Assembly, *verbatim* inserted; and the commission is empowered to advert carefully to the concerns of the church in the above particulars, and are ordained to use all dutiful and proper means for obtaining redress of what is, or may be found therein grievous, and to lay hold on every fit occasion for that effect.—*Act 18.*

1802. A declaration of the Assembly, shewing that parochial schoolmasters, by their instilling into youth the principles of religion and morality, solid and practical instruction, contribute to the improvement, order and success of people of all ranks; and are therefore well entitled to public encouragement; that from the decrease in the value of money, their emoluments have descended below the gains of a day labourer; that it has been found impossible to procure persons properly qualified to fill parochial schools; that the whole order is sinking to a state of depression hurtful to their usefulness; that it is desirable that some means be devised to hold forth inducements to men of good principles and talents to undertake the office of parochial schoolmasters; and that these men would prove instrumental in counteracting the operations of those who may now and afterwards attempt to poison the minds of the rising generation with principles inimical to religion, order, and the constitution in church and state. The moderator and procurator for the church are instructed to embrace every favourable opportunity of expressing the above sentiments, to correspond with the officers of state for Scotland upon the subject, and to co-operate in the most prudent and effectual way to forward any plan for the relief of parochial schoolmasters, and give it all the weight it can derive from the countenance of the General Assembly.—*Act 7.*

## DEPOSING AND REPOSING OF MINISTERS.

1638. Presbyteries are ordained to proceed with the censures of the kirk, to excommunication, against those



ministers; who being deposed by the Assembly, acquiesce not in their sentences, but exercise some part of their ministerial function, refuse themselves, and withdraw others from the obedience of the Acts of Assembly.—*Act Sess. 24, Dec. 18.*

1639. Mr. George Graham, late pretended Bishop of Orkney's renunciation of episcopacy, is recorded in *Act Sess. 8, Aug. 17.*

The sentences pronounced against the ministers deposed by the several commissions granted by the Assembly at Glasgow, are approven as just and lawful decrees.—*Act Sess. 19, Aug. 27.*

All those ministers who were deposed before synods, for subscribing the declinator and reading the service-book, being guilty of no other gross fault, are recommended to the said synods, to be by them, upon their true repentance and submission to the constitutions of this kirk, found capable of the ministry, when God should grant them an ordinary and lawful calling, by admission from the presbytery, either in the church they served in before, or in any other.—*Act Sess. 20, Aug. 28.*

The *Act 38, Sess. 8, at Edinburgh, October 24, Ass. 1578*, ordaining ministers, who are deposed, to be charged under the pain of excommunication to demit their places, that they may be unquestionably vacant, is renewed and remitted to parliament.—*Act Sess. 22, Aug. 29, Art. 5.*

1641. That ministers who are deposed, either by presbyteries, synods, or General Assemblies, or committees from Assemblies, for the public cause of reformation and order of this kirk, shall not be suddenly received again to the ministry, till they first evidence their repentance, both before the presbytery and synod, within the bounds where they were deposed; and thereafter, the same reported to the next ensuing General Assembly.—*Act Sess. 8, Aug. 2.*

1643. All provincial assemblies are discharged to repon any minister deposed by the General Assembly; and all presbyteries to repon ministers deposed either by provincial or General Assemblies; and all such sentences of reposition by the inferior judicatories *respectively*, are

declared null in themselves, and that the sentences of deposition by the superior judicatories *respective*, shall stand valid and effectual, notwithstanding thereof.—*Act Sess. 10, Aug. 12.*

1645. That no minister deposed be restored again to the same place where he formerly served.—*Act Sess. ult. Feb. 13.*

1648. That notwithstanding of any license to be granted for opening the mouths of deposed ministers, yet they shall not be actually admitted to any particular congregation; but it is declared for such as had already their mouths opened before that time, That if any calling to a particular charge be offered unto them before the next Assembly, it should be sufficient for them to have the consent of the commissioners of that Assembly.—*Act Sess. 11, July 21.*

That whosoever, after the sentence of deposition pronounced against them, do either exercise any part of the ministerial calling in the places where they formerly served or elsewhere, or do possess, meddle or intromit with the stipend, or other benefits whatsoever, belonging to those kirks they served at, shall be proceeded against with excommunication; and if any suspended minister, during his suspension, either exercise any part of the ministerial calling, or intromit with the stipend, that he be deposed, and, after deposition, continuing in either of these faults, that he be processed with excommunication; but prejudice always to them of their stipend resting for bygone service, and of any recompence due for building or repairing of the manse, according to the ordinary practice: And it is seriously recommended to presbyteries to be careful in putting that act in execution.—*Act Sess. 30, Aug. 5.* This act bears a narrative, That the censure of suspension and deposition of ministers is, by the ancient practice and order of this kirk, both *ab officio et beneficio*, as is acknowledged by Act 20, Parl. 1644.

1648. No minister deposed for malignancy and compliance with the enemies of the kirk and cause of God (when it shall fall out that he be put in a capacity of admission to the ministry) shall enter into the congregation

of any other minister, who also hath been deposed for malignancy and compliance, as said is.—*Act Sess. ult. Aug. 12.*

1690. Mr. Thomas Linning, Mr. Alexander Shields, Mr. William Boyd, who have followed some courses contrary to the order of this church, having given in two papers, the one containing expressions of their purpose and promise of being subject to the authority of this church, and the other for exoneration of their consciences ; after a grave admonition by the moderator to walk orderly in time coming, in opposition to all schism and division, were unanimously received into the fellowship of the church, to enjoy the privileges, and to perform the duties whereof they are or shall be found capable.—*Act 5.*

1705. Mr. John Hepburn is deposed from the exercise of the holy ministry by *Act 7.*

1740. Messrs. Ralph and Ebenezer Erskines, Wilson, Moncrief, Fisher, Mair, Nairn, and Thomson are deposed from the office of the holy ministry by *Act 4.*

1752. Mr. Thomas Gillespie is deposed by *Act 4.*

1758. Mr. Thomas Boston having demitted his charge of the parish of Oxnam, it is declared, That he is no minister of this church, and that he is incapable of receiving or accepting of a presentation or call to any parish in this church, without the special allowance of some future Assembly : And all the ministers of this church are prohibited from employing him to preach or perform any ministerial offices for them, or from being employed by him, unless some future Assembly shall see cause to take off this prohibition.—*Act 4.*

1766. Mr. James Bain having given up the charge of the kirk of Paisley, it is declared, That he is no minister of this church, and that he is incapable of receiving or accepting of a call or presentation to any parish in this church, without the special license of some future Assembly : And all the ministers of this church are prohibited from employing him to preach or perform any ministerial offices for them, or from being employed by him, unless some future Assembly shall see cause to take off this prohibition.—*Act 6.*

1776. The sentence of deposition passed upon Mr. Robert Dalrymple is taken off, and he is reponed to the office of minister of the gospel.—*Act 9.*

### DISSENTING VOTERS.

1644. If any member of presbyteries or synods shall find, in matters depending before them, that the moderator shall refuse to put any thing of importance to voices ; or, if they find any thing carried by plurality of voices, to any determination which they conceive to be contrary to the word of God, the Acts of Assembly, or the received order of this kirk ; in any of these cases, the Assembly think it necessary that they urge their dissent to be marked in the register ; and if it be refused, that they protest, as they would desire to be free of common censure with the rest : And the dissenters are declared censurable, if their dissent shall be found otherwise than they conceived.—*Act Sess. 7, June 4.*

### DOCTRINE.

1704. All persons are discharged to preach or disseminate any erroneous doctrine, opposite to any head or article of the confession of faith of this church ; and particularly, the venting of any Arminian or Socinian error is discharged ; and the respective judicatures of the church are ordained to advert to any who shall teach or vent such errors, and to proceed to censure them therefore, as shall be found just and requisite for suppressing the same ; and more especially, that the synod of Fife take heed to Mr. Graham at Dunfermline, that he contravene not this.—*Act 12.*

1710. All persons are discharged to vent any opinion contrary to any head or article of our confession of faith and catechisms, or to use any expression ; in relation to the articles of faith, not agreeable to the form of sound words expressed in the word of God, and the confession

of faith and catechisms of this church, which are most valuable pieces of our reformation. And it is enacted, That no minister or member of this church presume to print or disperse in writ, any catechism, without the allowance of the presbytery of the bounds, and of the commission : And the presbytery is appointed to lay any such catechism before the commission ; and synods and presbyteries are enjoined carefully to advert to the observation of this act, and to notice the transgressors thereof.—*Act 12.*

1715. A committee is appointed and empowered to inquire into whatever should be found necessary for preserving and maintaining the purity of the doctrine of this church ; and particularly, to take into consideration the process, Mr. James Webster against Mr. John Simson, and prepare a full and distinct state thereof, and report an overture thereupon to the next Assembly, in order to their final decision thereof ; and particular instructions for that end are given to the said committee, by *Act 8.*

1716. Mr. John Simson, and all others, are enjoined to forbear teaching, or any way venting the proposition charged by Mr. James Webster against him as error, until they be determined by the judicatures of the church ; and the commission and instructions given by the committee named by the former Assembly, for preserving the purity of doctrine, are renewed, and it is referred to them also to consider some propositions laid before the Assembly by Mr. Webster, and Mr. Simson's answers thereto, and all other things relating to that affair ; particularly, some points mentioned in the act, that were reserved by the said committee, to be considered after finishing the principal cause : And the committee is empowered to give such directions to Mr. Simson as they shall find necessary. And all ministers are discharged, by preaching or printing, to charge Mr. Simson with error, until the matter be fully tried, and he be convicted by the church : But prejudice always to them to state the same propositions that are charged against him, and refute the same by as strong arguments as they think fit : And upon a protestation entered by Mr. Simson against the above-

mentioned injunction laid upon him by the Assembly, as insinuating that he had taught the errors charged against him in Mr. Webster's libel, as his opinion, or as truth, which he disowned : The committee is empowered to suspend him for such time as they shall think fit, in case it was found that he contravened the same.—*Act 7.*

1717. Mr. John Simson is prohibited and discharged to use expressions that bear, and are often used in a bad and unsound sense, or to teach, preach, or otherwise vent opinions, propositions, and hypotheses which unduly advance natural reason, and are not evidently founded on scripture : And they extend the foresaid prohibition to all professors of divinity, ministers, preachers, and others in this church ; and particularly, discharge them to vent any doctrines not agreeable to our confession of faith and catechisms : And they recommend to all faculties in universities, and to all presbyteries within this church, to see this act observed by all the persons aforesaid within their several jurisdictions, and to censure the contraveners, as they see cause.—*Act 9.*

1723. Mr. Gabriel Wilson, minister of Maxtoun, found to have not been entirely orthodox in a sermon preached before the synod of Merse and Tiviotdale, in these three points of doctrine, viz. 1. That the moral law to believers is divested of the curse or threatening of eternal damnation, and hath no other sanction but fatherly chastisement ; 2. That gospel or saving repentance is not necessary in a sinner, in order to the pardon of his sins in justification ; 3. That assurance, or a man's persuasion that he shall be saved by Christ, is of the essence of justifying faith : And he is admonished, prohibited, and discharged to use, by writing, preaching, catechising, or otherwise teaching, either publicly or privately, any expressions upon these three points of doctrine, that are inconsistent with, or contrary to those maintained in this church, agreeable to the word of God, and the confession of faith and catechisms thereof : And he is admonished to keep the form of sound words, and to beware of expressing himself upon any occasion in such terms as may have a bad influence on christian practice, or any ways tend to

weaken the life and power of godliness, and be of dangerous consequence to the great interest of precious souls.—*Act 11.*

1727. A committee is appointed with full powers to proceed upon the articles of the process against Mr. Simson, both as to the libel and queries, not however, to pass a sentence either absolving or condemning him, but to report their diligence to next Assembly ; all being reserved for their judgment. It is recommended to the presbytery of Glasgow to assist the committee ; and Mr. Simson is appointed to attend it and the next General Assembly ; and in the meantime, on account of the articles of the libel found relevant and proven, he is suspended from preaching and teaching till the meeting of next General Assembly.—*Act 10.*

1728. Mr. John Simson found to have taught such things, and expressed himself in such terms as are subversive of the doctrine of the trinity, as contained in the Holy Scriptures, and laid down in our Confession of Faith and Catechisms ; he is therefore suspended from preaching and teaching, and all exercise of ministerial power or function, until another General Assembly shall think fit to take off the sentence.—*Act 9.*

1729. The sentence of last General Assembly is ratified and confirmed suspending Mr. Simson from preaching and teaching, and all exercise of any ecclesiastical power or function, until another General Assembly shall think fit to take off this sentence. And the Assembly also give it as their judgment, that it is not fit or safe that he be further employed in teaching divinity and instructing youth designed for the holy ministry in this church : And that the judicatories may have no more trouble about this process, it is thought fit that, for peace's sake, this whole affair concerning Mr. John Simson shall rest here.—*Act 6.*

1730. Recommended to all ministers of this church to be careful in their several charges ; to guard against the spreading of any error, contrary to the standards of doctrine, and condemned by acts of Assemblies, particularly such as strike against the fundamentals of our holy religion.—*Act 8.*

1736. Found, That what Mr. Archibald Campbell, professor of divinity and ecclesiastical history in the university of St. Andrews, had taught with respect, 1. To the inability of man by his natural power to find out the being of a God, he had by this no intention to enervate natural religion, or give any handle or countenance to its enemies, but rather to show the necessity of supernatural revelation. 2. To the law of nature's being sufficient to guide rational minds to happiness; that it was not his meaning that a supernatural revelation of a Saviour, and faith in him, were superfluous, and not necessary to the happiness of fallen man. 3. To self-love's being the sole principle and motive of all religious and virtuous actions; that he meant no more than that our delight in the honour and glory of God was the *chief* motive of all virtuous and religious actions; and 4. That the disciples during our Saviour's lifetime only expected and hoped for a temporal deliverance and worldly kingdom—that between his death and resurrection they concluded him to be a cheat and impostor—and that before his resurrection they had no notion of his divinity: That these were only Mr. Campbell's conjectural opinions with regard to the inward sentiments of other men; that our confession and catechisms teach nothing concerning these matters; and that his design was to give greater strength to his argument for vindicating the apostles from enthusiasm; and it is thought that the examining and stating the matter as has been done is sufficient for cautioning against the errors of which Mr. Campbell had at first been supposed guilty, without a formal sentence; and therefore it is resolved and appointed, That the matter rest here. And it is recommended to Professor Campbell, and to all ministers and teachers of divinity within this church, to be cautious in their preaching, teaching, and writing, not to use doubtful expressions or propositions, which may be constructed in an erroneous sense, or lead the hearers or readers into error, however sound such words or propositions may be in themselves, or however well intended, but to hold fast the form of sound words.—Act 10.

1737. It is declared, That as the Assembly in the fore-



going act say, that they gave no judgment or formal sentence on Professor Campbell, and therefore could not be understood to adopt any of his expressions on the head of self-love; so this Assembly do steadfastly adhere to the doctrine of our church on that head, expressed in our standards, particularly in the answers to that question in our Shorter and Larger Catechisms, "What is the chief end of man?"—*Act 5.*

1744. Exceptions having been taken at a sermon published by Mr. William Leechman, professor of divinity in the college of Glasgow, on the nature, reasonableness, and advantage of prayer, it is found, that he has given abundant satisfaction concerning the orthodoxy of his sentiments; and that there is no ground or occasion remaining for any further trial of the professor in respect of that sermon: And the presbytery of Glasgow is prohibited to commence or carry on any further or other proceedings against him on account of that sermon.—*Act 9.*

## DUELS.

1648. That all persons, of whatsoever quality, who shall either fight duels, or make, or write, or receive, or, with their knowledge, carry any challenge, or go to the field, either as principals or seconds, to fight duels or combats, be, without respect of persons, processed with the censures of the kirk, and brought before the congregation two several Lord's days; in the first whereof they are sharply to be rebuked, and convinced of the heinousness of their sin and offence; and on the next to make a solemn public confession thereof, and profession of their unfeigned humiliation and repentance for the same: And if the persons guilty of any of the former offences be an elder or deacon, he is to be removed from his office: And whatsoever person guilty of any of these offences shall refuse to give obedience according to the tenor of this act, that he be processed to excommunication. And if any be killed at such duels, that the killer be proceeded against by the kirk as other murderers.—*Act Sess. ult. Aug. 12.*

## EVILS OF THE KIRK.

1638. The high commission court is disallowed, and condemned as unlawful in itself, and prejudicial to the liberties of Christ's kirk and kingdom, the king's honour in maintaining the established laws and judicatures of the kirk; the use and practice of the same is prohibited; and presbyteries are ordained to proceed with the censures of the kirk against all such as transgress.—*Act Sess. 14, Déc. Art. 4.*

The articles concluded at Perth Assembly, 1. That the sacrament of the Lord's supper be celebrated by the people on their knees; 2. That it be privately administered to persons on deathbed, three or four being present to communicate with them, and a place convenient, and all things necessary decently provided; 3. That baptism, when great need shall compel, be administered in private houses, and declaration made thereof next Lord's day in the congregation; 4. That ministers catechise all young children of eight years of age, and that the bishops, in their visitations, cause present them to them, and bless them, with prayers and imposition of hands; and, 5. That the days of our Lord's birth, passion, resurrection, and ascension, and sending down of the Holy Ghost, be observed by ministers, in commemoration of these inestimable benefits; are declared to have been abjured by the kirk, in their confession of faith, as it was meant and professed in the years 1580, 1581, 1590, 1591, and so ought to be removed out of it; and all disputing for, or observing of, any of them, in all time coming, is prohibited and discharged; and presbyteries ordained to proceed with the censures of the kirk against all transgressors: And the several acts of parliament and General Assemblies, and heads of our confession of faith, and books of discipline, disapproving and condemning the substance of these articles, are resumed in *Act Sess. 17, Dec. 10.*

The confession of faith, and several acts of the General Assemblies of this church, declaring against abolishing

and condemning all errors and corruptions in doctrine, discipline, and government, and particularly, the Roman hierarchy, and establishing and ratifying the liberty, discipline, and jurisdiction of the true kirk, in her sessions, presbyteries, synods, and General Assemblies, and gradually advancing and carrying on the work of reformation from the year 1595, are recapitulated: And declared, that according to the confession of faith, as it was professed in the years 1580, 1581, and 1590, all episcopacy, different from that of a pastor of a particular flock, was abjured in this kirk, and to be removed out of it: And therefore, all persons are prohibited, under ecclesiastical censures, to usurp, accept, defend, or obey, the pretended authority thereof, in time coming.—*Act Sess. 16, Dec. 8.*

1639. That the service, or common prayer book, book of canons, and consecration or ordination, and the high commission court, be rejected; the articles of Perth be no more practised; that episcopal government, and the civil places and power of kirkmen, be held still as unlawful in this kirk; that the pretended Assemblies at Linlithgow 1606 and 1608, at Glasgow 1610, at Aberdeen 1616, at St. Andrews 1617, and at Perth 1618, be thereafter accounted as null and of no effect, as the main and most material causes, of the many and great evils that in time past had so sore troubled the peace of this kirk and kingdom; and that, for the preserving of religion, and preventing all such evils in time coming, General Assemblies, rightly constituted, as the proper and competent judge of all matters ecclesiastical, be thereafter kept yearly, and oftener, *pro re nata*, as occasion and necessity shall require; the necessity of all these occasional Assemblies being first remonstrated to his majesty by humble supplication: As also, that kirk-sessions, presbyteries, and synodical Assemblies, be constituted and observed according to the order of this kirk.—*Act Sess. 8, Aug. 17.*

1715. The Assembly approves of a memorial setting forth the evils and grievances of the church from patronages, from the toleration as it stands; the hardships imposed upon Scotsmen in office in England and Ireland, in obliging them to take the sacramental test, and the

prejudice done to this church by the differences that have arisen about the oath of abjuration, and recommends to all the members to use their endeavours with friends at London, that the end of the addresses set down in Acts 16, 17, Ass. 1712, concerning the oath of abjuration, may be obtained; and the said memorial is put into the hands of their commission, who are enjoined to use all due means to obtain redress, and to send the same to the secretary of state, to be laid before his majesty.—*Act 9.*

### EXCOMMUNICATION.

1638. The pretended Archbishops of St. Andrews and Glasgow, the Bishops of Edinburgh, Galloway, Ross, Brechin, and Aberdeen, are deposed and excommunicated; and the pretended Bishops of Dumblain, Murray, Orkney, Lesmore, Isles, Dunkeld, and Caithness, are deposed for sundry heinous offences and enormities proven against them, and are ordained to be excommunicated, in case of their disobedience to the ordinances of the Assembly, by *Act Sess. 20, Dec. 13.*

The act of Assembly at Edinburgh 1569, ordering, that those who will not forbear the company of excommunicated persons after due admonition; be excommunicated themselves, except they forbear, is ordained to be put in execution, by *Act Sess. 23, 24, Dec. 17, 18, Art. 16.*

1643. That if any minister haunt the company of an excommunicated person, contrary to the laws of the kirk, he be suspended from his ministry, by his presbytery, for the first fault, during their pleasure; and for the second fault, that he be deprived; and in case the presbytery be negligent therein, that the provincial Assembly do censure the presbytery thus negligent.—*Act Sess. ult. Aug. 19.*

The article of the heads and propositions sent to the Assembly held at Edinburgh in 1573, by the Lord Regent, and approved by the Assembly, bearing, that it was resolved that the executions of the sentence of excommunication against persons excommunicated, after

the space of forty days past, should be presented to the Lord Treasurer, or his clerk, to receive also civil execution upon his majesty's charges, in manner mentioned in the act, is ratified and approven; and presbyteries are ordained to cause send in to the procurator or agent for the kirk, minutes and notes of the sentences of excommunication within their bounds, bearing the time and cause thereof, under the hand of their moderator or clerk, or of the minister that pronounced the sentence, for the end above mentioned; and that particular account be craved hereof in every General Assembly.

1646. George Earl of Seaforth ordered to be excommunicated, and intimation to be made thereof in all the kirks of Scotland.—*Sess. 10, June 13.*

1704. That the sentence of excommunication being first intimated throughout all the churches within the presbytery where the said sentence was pronounced (if the persons continue obstinate), the presbytery shall then give an account thereof to the synod, who shall appoint the like intimation to be made in all the churches within their bounds; and if, notwithstanding of this and other due means used to reclaim them, they still continue obstinate, in that case, that an account of their names, and sentences passed against them, be brought by the said synod to the General Assembly; that they may appoint intimation thereof to be made throughout all the churches of the kingdom; and that at the foresaid respective intimations, ministers take occasion to hold forth the sad state and condition of the excommunicated persons, and that they inform the people how to carry towards them.

—*Act 9.*

*Excommunication Less.*—*Vide* Form of Process, cap. 8, vol. i. of Compend., page 160.

*Excommunication Greater.*—*Vide* Form of Process, cap. 3, vol. i. of Compend., page 146, and cap. 8, page 160.

## FASTS.

1642. A day of fasting and humiliation is appointed for the causes mentioned in *Act Sess. 13, Aug. 6.*

1644. That not only the members of the General Assembly, but all the congregations also of the town where the Assembly holds, be exercised in fasting and humiliation, the first day of the meeting of the General Assembly, for craving the Lord's blessing on that meeting; and that public worship be in all the kirks thereof that day, for that effect.—*Act ult. Sess. 7, June 4.*

1646. But the said act, as to public fasting in the congregation, is suspended, until the matter were further considered; the exercises, for the members of the Assembly at their first meeting, being still observed according to the ancient and laudable practice.—*Act Sess. ult. June 18.*

1690. A solemn national fast and humiliation is appointed to be kept for the public defections and sins of the land, both in the late and present times; whereof see a long narration in the act; which also contains a serious exhortation to repentance and the performance of several duties, and to fervent prayer for several blessings therein mentioned.—*Act 12.*

1699. Another fast, for the like causes, is appointed by Act 6.

1700. Another, by Act. 5.

1701. Another, by Act. 9.

1704. It is recommended to the several presbyteries to appoint a fast to be observed within their respective bounds, for the like causes, by Act 26.

1705. It is recommended to the several synods and presbyteries, to set apart a day for public fasting and prayer for her majesty's preservation and the protestant religion, by Act 17.

1706. A solemn fast and humiliation is appointed for the same causes with the former; and particularly, for the result of the treaty, then on foot, betwixt Scotland and England, by Act 19.

1709. A solemn fast is appointed for a dearth and threatened scarcity.—*Act 8.*

1710. A fast is appointed for the great and crying sins of the land.—*Act 6.*

1710. All ministers and members of this church are appointed religiously to observe all fasts and thanksgivings, whether appointed by the church, or the supreme magistrate, for just and necessary causes: And presbyteries and synods are appointed to take particular notice of the due observation of this.—*Act 7.*

1722. It is appointed, That the several presbyteries at their first meeting after every public fast or thanksgiving, whether by civil or ecclesiastical appointment, call the several brethren within their bounds to an account how they observed such fasts and thanksgivings, and record their diligence therein. And synods are enjoined, at their privy censures, and at their revising of the presbytery books, to take particular notice how the present and the above *Act 7, Ass. 1710*, have been observed by presbyteries, and the several ministers therein: And they are appointed to record their diligence in their books.—*Act 4.*

1726. A national fast is appointed for the causes mentioned in *Act 5.*

1741. The several presbyteries within the church are appointed to fix upon a particular day in the month of June for the observance of a fast on account of a scarcity, and a war under which the nation was groaning.—*Act 4.*

1756. A solemn national fast is appointed for the reasons set forth in the act; and supplications proper for the occasion enjoined.—*Act 6.*

1783. It is recommended to all ministers to take such methods as shall appear to them most effectual to fix the attention of all ranks upon the lessons of contrition, thankfulness, and liberality, which then the dispensations of providence, and the seasonable supply of provisions especially taught. This recommendation is appointed to be transmitted to presbyteries as soon as possible.—*Act 7.*

## FATHER OF AN ILLEGITIMATE CHILD.

*Vide Form of Process, cap. 4, vol i., page 148.*

## FORMULA.

1694. Appointed, That the following formula be acknowledged and subscribed upon the end of the Confession of Faith :—" I, A. B., do sincerely own and declare the above Confession of Faith, approved by former General Assemblies of this church, and ratified by law, in the year 1690, to be the confession of my faith; and that I own the doctrine therein contained to be the true doctrine, which I will constantly adhere to : As likewise, that I own and acknowledge presbyterian church government of this church, now settled by law, by kirk-sessions, presbyteries, provincial synods, and general assemblies, to be the only government of this church ; and that I will submit thereto, concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof ; and that I shall observe uniformity of worship, and of the administration of all public ordinances within this church, as the same are at present performed and allowed."—*Act 11.*

1717. The presbytery of Auchterarder is appointed to give Mr. William Craig an extract of his license to preach the gospel : And the said presbytery, or any other presbytery within this national church, are discharged to require subscriptions of any young men, to be licensed to preach the gospel, or ordained to the office of the ministry, to any *formula*, but such as is, or shall be agreed to and approved by the Assemblies of this church. : And the Assembly declared their abhorrence of the proposition required by the said presbytery of Mr. Craig, viz. " And further, That I do believe, that it is not sound and orthodox to teach, that we must forsake sin, in order to our coming to Christ, and instating us in covenant with God,"



as unsound and most detestable, as it stands and was offered by the said presbytery to be subscribed by Mr. Craig: But the ministers of the said presbytery not being present to answer for themselves, they were appointed to be cited before the commission, to answer them in the matter above written; and the commission is appointed to determine therein, as they shall find just.—*Act 10.*

1718. The brethren of the presbytery of Auchterarder, having compeared before the commission, and represented what they intended by the said proposition, and the commission having accepted of the sense they offered of it, with this declaration always, that however sound and orthodox they were in their meaning, and what they intended by that proposition, yet they had expressed it in words very unwarrantable and exceptionable: And the commission having admonished them and discharged them to use that expression in time coming, and the brethren of Auchterarder having engaged to observe this prohibition, the Assembly approved of their commission's proceedings in this matter; and, for vindication of their brethren of Auchterarder, appointed the above to be printed among their public acts.—*Act 8.*

### GAELIC BIBLE.

1826. The General Assembly authorize and ordain the version of the Scriptures, in Gaelic, approved of by the society for propagating Christian knowledge, with the version of the psalms and paraphrases now attached to it, and no other version, to be used in the churches and chapels within the bounds of this church, where public worship is conducted in the Gaelic language.—*Act 4. Sess. 8, May 26.*

### HIGHLANDS.

1646. That the knowledge of God in Christ may be spread through the Highlands and Islands, agreed, 1. That an order be procured that all gentlemen who are

able do send at least their eldest sons to be bred in the inland. 2. That a ministry be planted among them, and for that effect, that ministers and expectants, who can speak the Irish language, be sent to employ their talents in these parts; and kirks there be provided as other kirks in this kingdom. 3. That Scots schools be erected in all parishes there, according to the act of parliament, where conveniently they can be had. 4. That all ministers and ruling elders that have the Irish language be appointed to visit these parts; and this purpose is recommended to further consideration, that more overtures might be prepared thereanent, against the next Assembly.—*Sess. ult. June 18.*

1648. Some Highland boys are recommended to bursaries in universities, and every congregation is appointed to pay forty shillings Scots yearly, for maintaining other Highland boys at schools, in manner mentioned in Act Sess. 29, Aug. 4.

*Note.*—This collection was only to endure twelve years.

1648. The provinces of Murray, Ross, and Caithness, are exempted from the above contribution of forty shillings, upon condition that each presbytery of these provinces entertain one having the Irish language, at schools and colleges.—*Act Sess. 40, Aug. 11.*

1649. Instead of the above contribution of forty shillings, an extraordinary collection is ordained to be made at kirk doors one Sabbath in the year, for entertainment of Irish boys at schools and colleges, by Act Sess. ult., Aug. 6.

1690. 1. Appointed, that a letter of thanks be written to the contributors to the fund for Irish bibles, new testaments, and catechisms. 2. Thought needful, that there be an advance of £1000 Scots more, and that their majesties' privy council be supplicated therefor, out of the vacant stipends of the churches whereof the king is patron. 3. Recommended to the kirk-sessions, heritors, and others concerned in the Highlands, to see the act of parliament anent the erecting of schools in every parish, duly executed, and the funds established by law for the same be made effectual. 4. That the agent for the

church receive the foresaid £1000 Scots, and disburse the same at sight of the ministers named in the act; and also receive the books above mentioned, being 3000 bibles, 1000 new testaments, and 3000 catechisms, from London. 5. That the members of that Assembly, from the several synods having Highland parishes in their bounds, do meet and appoint some to receive and proportion the said books among the respective parishes. 6. Recommended to the ministers concerned in the Highlands, to dispatch the whole paraphrase of the Irish psalms to the press, and if the principal copy can be recovered, to expedite the same; but that any other copy they have be revised and approved by the synod of Argyle, that the same be printed.—*Act 11.*

1694. Sixteen ministers, particularly named from the synods in the south, mentioned in the act, are appointed to go to the synods in the north, therein expressed, and supply vacancies for three months; and after them, other sixteen, according to the proportions set down in the said act, for the like time; and so forth quarterly, by turns, until the next Assembly: And recommended to the respective presbyteries, punctually to supply the kirks of those that go to the Highlands, or are upon the commission or committee for the north.—*Act 14.*

1694. Recommended to the commissioners of Assembly, and committee for the north *respectively*, to make inquiry into unwarrantable and illegal intrusions, and to apply to the lords of privy council to declare the intrusion, to the effect the kirks intruded into might be planted orderly, with their lordships' assistance.—*Act 16.*

1694. Some ministers and elders appointed as a committee for the north side of Tay, to determine in all references, appeals, and other matters particularly remitted to them; and especially, in all things contained in, and conform to the overtures and instructions given them by that Assembly, and in no other matters: And they are declared only accountable to the next Assembly; and their commission to continue till the second Tuesday of April 1695, or the next Assembly, if it first happen.—*Act 19.*

1694. Recommended to all presbyteries, that they fix no preachers or intrants, having the Irish language, in any congregation within the Lowlands of Scotland, without the consent of, and a certificate from the presbyteries in the Highlands where they formerly resided.—*Act 21.*

1696. Some overtures are agreed to, for the more expedite planting of the Highlands, and declared to be condescended to only for the present exigence, and to be no precedent for after times;—to be seen at large in *Act 12.*

1696. Supplies of ministers are sent to Ross, Sutherland, and Caithness; and appointed, that such as have the Irish language in Lowland congregations be sent in mission; and upon calls, transported by the commission; and that in the same way as other ministers are appointed to be transported to the north.—*Act 14.*

1696. Forty-four ministers are nominated and appointed to go from the presbyteries in the south for the supply of the north, the one half after the other, by turns.—*Act 15.*

1696. The acts, proceedings, and conclusions of the foresaid committee 1694, for the north, are unanimously ratified and approved.—*Act 17.*

1696. The ordinary supplies for the north are ordered to continue till the next Assembly, conform to the foresaid *Act 14*, *Ass. 1694*. And recommended to presbyteries and synods that the same be made effectual; those named and formerly appointed to be sent from the several presbyteries by way of mission, being always sustained as a part of the said supply: But the presbytery of Perth is exeemed, in their present circumstances, from supplies to the north.—*Act 25.*

1697. Those who had not obeyed the foresaid *Act 1696*, are appointed to fulfil their mission.—*Act 6.*

1697. The synods besouth Tay are ordained to send to the north eighteen ministers, according to the proportions set down in this act, and to send a quarterly supply of ministers, ay and while the sitting of the next Assembly; and recommended to presbyteries to supply the kirks of the ministers sent to the north with daily preaching, at least two Sabbaths of three; and those ministers sent to supply the north are ordained to produce to their own

presbytery a testimonial from the presbyteries whose bounds they did supply, of their having fulfilled their appointment, and of their carriage and behaviour during their abode in these bounds.—*Act 14.*

1697. That when any parish on the north side of Tay, or of the town and presbytery of Perth, and presbyteries of Auchterarder and Dunkeld, shall call a minister belonging to any parish on the south side of Tay, the procedure in his transportation shall be according to the overtures of the aforesaid Act 12, Ass. 1696. And the presbyteries on the south side of Tay are appointed to send to the north a number of probationers equal to that of the ministers they are ordered by the foresaid Act 14, Ass. 1697; and the time of their staying there, and the work of the ministers sent north, is prescribed. Directions are given for the speedy planting of the north, both to the people in the north, and the commission of Assembly; and presbyteries are desired to proceed deliberately with any of the late conform ministers, either as to their censure or reception; and that as to the last, they follow the directions in the Act 11, Ass. 1694.—*Act 16.*

1698. Deficients in supplying the Highlands, are appointed to fulfil their missions, conform to Act of Ass. 1696.—*Act 7.*

That twelve ministers be transported from the South to the provinces of Angus and Mearns, Aberdeen, and Murray, and parishes thereof mentioned in the act: And directions are given to the presbyteries in the said provinces for the speedy settling of their parishes, and several cautions are given them as to their procedure. Twenty probationers are also ordered to the places of the north expressed in the act; and one hundred merks, out of the king's gift to the church, is allowed to defray their charges; two hundred merks to those who go to Orkney, and they are ordered to go when sent, or lose their licenses: The supplies granted by Act 14, Ass. 1697, are continued and proportioned: The commission of this Assembly is empowered to divide themselves into committees; and these committees are authorized to visit the bounds they are appointed to, receive complaints from presbyteries,

redress grievances, inflict censures, &c. in conjunction with the presbyteries.—*Act 8.*

1698. The synods besouth Tay are appointed to send fifteen ministers to the bounds of the synods in the north every four months, according to the proportions mentioned in the act; that their presbyteries supply their kirks during their absence; and that the ministers sent catechise, and do all appointed by former acts of Assembly, and report, to their own presbyteries, testificates, as in Act 1697.—*Act 14.*

1698. Some probationers are appointed to go to the north; and the excuses of others referred to the commission.—*Act 19.*

1699. Enacted, 1. That all ministers and probationers who have the Irish language be sent to Highland parishes, and that none of them be settled in the low country till the Highland places be first provided. 2. That ministers and ruling elders, who have the Irish language, be appointed to visit these parts. 3. That where, in any Highland congregation, many understand English, and there used once a-day to be a sermon in English, presbyteries be careful to supply them, sometimes by preaching in English, and that they catechise them who understand not, by an interpreter, when they cannot get one to preach to them in Irish; and that those, whether ministers or probationers, who have somewhat of the Irish language, but not a facility to preach in it, be sent to these parts for the ends foresaid, that by converse they may learn more of the language, and ability to instruct the people. 4. That English schools be erected in all Highland parishes, according to former acts of parliament and General Assemblies; and it is recommended to the commission to address the king and parliament to take such course for this and other pious uses in the more northern Highland places, as is done in Argyle. 5. Recommended to presbyteries and universities to have a spiritual regard to the disposal of their bursaries, for educating such as it is hoped may be useful to preach the gospel in the Highlands; and that the commission address the Lords of the Treasury, and recommend the same to the town-council

of Edinburgh, and other patrons, for this end; and that the presbyteries of Dumbarton, Dumblain, Auchterarder, Dunkeld, Inverness, Aberlour, Tain, Dingwall, Dornock, and Caithness, have bursars who have the Irish language, if they can be had, and that universities recommend students having that language, and who are piously disposed, and of sound principles, to any of the above presbyteries. —Act 9.

1699. That any of the twenty probationers sent by the last Assembly to the Highlands, who have not obeyed the appointment, be sent back again to fulfil the twelve months: The settling of any north country probationers in the south is discharged, except on the conditions expressed in the act. And other twenty probationers are ordered north, according to the proportions, and for the time mentioned in the act; and those who go to Perth, Auchterarder, and Dunkeld, are allowed £40 each; to Angus, £50; to Aberdeen, 100 merks; to Murray, £80; to Ross, Sutherland, and Caithness, £100; and to Orkney, 200 merks, out of the king's gift. Directions are given to them with respect to their settlement. Eleven actual ministers are ordered to be sent north, each for four months, and subjected to transportation, as in the act. But it is recommended to presbyteries not to make use of the *jus devolutum* till all other means be essayed. —Act 11.

1699. Appointed, 1. That each presbytery give up yearly to the General Assembly a distinct account of probationers and students of divinity within their bounds, who have the Irish language. 2. That ministers having that language, settled in the Lowlands, be sent to supply vacancies in the Highlands; and if they get orderly calls, that they be transported thither. 3. A committee is appointed to distribute the Irish bibles, and to take receipts therefor. And 4. To inquire anent the £1000 given by the treasury for binding these bibles, and the remains thereof allotted to help a fund for a new impression thereof. 5. That all, especially presbyteries having Irish parishes, consider what may be done to get a fund for a new impression of these bibles, and of the Irish psalms in metre, and shorter catechisms. 6. That the synod of

Argyle translate the Confession of Faith of this church, and larger catechisms, into the Irish language, and exactly notice any typographical errors in the late impression of the Irish bible; that they may be amended in a new impression. 7. That they continue to visit the country and isles in their bounds and assist their neighbours. 8, 9, 10, 11, 12, 13, 14. Committees are appointed for visiting several Highland parishes, kirks, manses, glebes, and schools, in manner mentioned in these articles. And, 15. That his majesty be addressed for the effect of his royal munificence to the more northern Highlands, and the concurrence of the nobility and gentry concerned, be desired for this end.—*Act 16.*

1700. The brethren that shall go north upon commissions, are excoemed from giving in supplies there, when it comes to their turn; and their churches are appointed to be supplied during their absence.—*Act 14.*

Nine ministers are sent, for supplying the north, each four months, till the next Assembly, according to the proportions mentioned in the act; and eighteen probationers in the same terms, and with the same encouragements that the twenty probationers had, which were sent by Assembly 1669.—*Act 21.*

That all former acts for rendering effectual the supply of the north with ministers, not expressly rescinded, shall be in full force; and referred to the commission to see to the execution thereof.—*Act 24.*

1701. Four ministers sent to supply in the north according to the proportions mentioned in the act, and seventeen probationers, as by the former Assembly.—*Act 6.*

The above Act 24, Ass. 1700, declared to stand still in full force; and it is referred to the commission to see to the observation thereof.—*Act 17.*

1703. Act concerning the planting of vacant churches in the north, the Highlands and Islands, and supplying thereof with ministers and probationers, and promoting religion and the kingdom of God in these places, which contains particular instructions to the commission for supplying vacancies, and planting parishes, and appoints the commission to encourage the erecting of schools and libraries in the Highlands.—*Act 9.*



1708. All presbyteries of this church are discharged for the future to concur with any call or design of settling any minister or probationer having Irish, in any congregation in the Lowlands, unless such persons have been for one year at least in the Highlands supplying vacancies; and no call offered to them, and in that case, presbyteries are allowed to settle them; but with this condition, that so soon as a call comes from any Highland parish, needing one having the Irish language, that such persons be transported; and all former acts anent planting the Highlands are renewed; and it is referred to the commission to take care that the same be put in due execution.—*Act 11.*

1709. Presbyteries are ordained, when they are to take a young man under trials, who lived for some time in his younger years in the Highlands, or where the Irish language is generally spoken, to write to that presbytery in whose bounds he lived the said time, to make inquiry whether such a person hath the Irish language, or might soon acquire it, and upon report that he hath it, or may soon acquire it, that he be sent to supply in the Highlands as one that hath the Irish language; and it is certified, that if presbyteries settle any in these circumstances, in a congregation having only the English language, they shall be censured, and the person so settled shall be transportable to any Highland congregation that shall call him, and shall be liable to be sent as a supply to the Highlands, any such settlement notwithstanding: And the commission is empowered to receive complaints from any presbytery or parish in the Highlands, who shall find themselves lesed in this matter, and to put the present act in execution in all points.—*Act 5.*

1712. Three ministers from the Lowlands, and as many from the synod of Argyle, are commissioned to join with the presbytery of Lorn, to perambulate Lochaber, and other parishes in the bounds of the said presbytery, and discourse with the heritors and inhabitants concerning new erections of churches in that country, and settlement of schools therein; and to endeavour to get places condescended on for that effect, and to obtain in writ the consent of heritors; and also for preaching the

gospel, visiting families, and doing other ministerial duties in that part of the Highlands.—*Act 15.*

1716. The Assembly discharges the planting, in Lowland congregations, preachers having the Irish language, especially such as have been educated upon the Highland bursaries; or, transplanting to the Lowlands ministers planted in the Highlands, without a particular allowance of the Assembly.—*Act 8.*

1716. The commission is empowered to send committees to the north and Highlands, to visit churches there, and consider the state thereof, and purge and plant kirks, and to join the presbyteries of the bounds they are sent to, and assist them in their work.—*Act 9.*

1726. All former acts for planting preachers and ministers in the Highlands, who have the Irish language, and for transporting ministers from the Highlands to the Lowlands, are ratified and confirmed: And it is further appointed, That no transportation from the Highlands to the Lowlands, nor from one part of the Highlands to another, be granted, nor any thing done by any judicature, which directly tends thereunto, without duly calling all concerned, and hearing them thereupon, and examining the sufficiency and proof of the reasons on both sides of the question; and it is declared and ordained, That from any Highland place, especially where popery abounds, a minister shall not be transported, nor any steps made towards the same, but upon great and weighty reasons, and for the evident good of the church: And moreover, That in Highland parishes, wherein popery abounds, no minister shall be transported, nor any thing done leading thereto, but by the General Assembly, except it be to another Highland parish, wherein popery also prevails.—*Act 9.*

1765. The Assembly, in an address to King George III, declare their concern for the ignorance and error of the inhabitants of the remote parts of Scotland, and express their wish to be enabled to erect new parishes in different parts of the Highlands, with part of the rents of the forfeited estates.—*Act 6.*

1816. That the Gaelic translation of the scriptures now in use, be revised by persons named of acknowledged skill and experience, that it may be improved and render-

ed as complete as possible, and that the society for propagating christian knowledge be encouraged and supported in the quarto edition of the bible in which they are engaged: A committee is appointed to consider the means employed to procure the best translation that can be obtained, and to attend to the edition projected: The use of any other Gaelic version of the scriptures is prohibited in churches, chapels, missions, and schools, within the established church, other than any of the editions published by the society, until the new work is completed: And enjoined, that this resolution be sent to every presbytery within whose bounds parishes are situated, in which the Gaelic language is spoken.—*Act 6.*

### INFORMERS.

*Vide* Form of Process, cap. 2, § 8, vol. i, p. 144.

### INSTRUCTIONS.

1690. The commissions granted by Acts 16 and 17, Ass. 1690, for visitations on the north and south sides of the Tay, were instructed: 1, 2. To discuss all references, appeals, and bills committed to them by that Assembly. 3. To give advice to presbyteries. 4. Purge out all insufficient, supinely negligent, scandalous, and erroneous ministers. 5. Visit ministers. 6. Admit to ministerial communion, and a share of the government, such of the episcopal clergy as they, on due trial, found to be orthodox in doctrine, of competent abilities, having a pious, godly, loyal, and peaceable conversation, of an edifying gift, and who, they believe, should be true and faithful to God and the government, and diligent in their ministerial duties, that shall subscribe the Confession of Faith, and profess their submission to, and willingness to join and concur with the presbyterian church government. 7. Act cautiously and deliberately in their procedure against the late conformists. 8. Keep close to their instructions.—*Act 15.*

1694. The commission granted by Act 18, Ass. 1694,

was instructed: 1. To determine in all matters remitted to them by the Assembly; some of them to go to the north, and the rest to continue in the south: their quarters are fixed, and their first meeting determined by the Assembly; but their after meetings left to their own appointment. 2, 3, 4, 5, 6. They are instructed to receive into ministerial communion such of the episcopal clergy whom they should find qualified as above, and who should apply personally and orderly, and should acknowledge, engage, and subscribe upon the end of the Confession of Faith, as follows, viz. "I, A. B., do sincerely own and declare the above Confession of Faith, approved by former General Assemblies of this church, and ratified by law, in the year 1690, to be the confession of my faith; and that I own the doctrine therein contained, to be the true doctrine which I will constantly adhere to: As likewise, That I own and acknowledge the presbyterian church government of this church, now settled by law, by kirk-sessions, presbyteries, provincial synods, and General Assemblies, to be the only government of the church; and that I will submit thereto, concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof; and that I shall observe uniformity of worship, and of the administration of all public ordinances within this church, as the same are at present performed and allowed." And take trial of ministers accused of any scandal, error, supine negligence or insufficiency, and report to the Assembly; and determine in the case of gross uncontroverted scandals, give advice to presbyteries, censure calumniators of ministers. 7. Settle elderships, and plant vacant congregations in the north, and determine in appeals.—*Act 11.*

1698. Instructions much of the same nature are given to the commission of this Assembly, by *Act 13.*

1699. To the commission of this Assembly, by *Act 15.*

1700. The instructions and advices given to the presbyteries of Caithness, Orkney, and Zetland, at their election, are continued; and referred to the commission, to add to, or alter the same, as they shall see cause; and otherwise to assist the said presbyteries in manner mentioned in *Act 7, Ass. 1700.*

1700. To the commission of this Assembly, by Act 20, and they are further instructed, to supply the African and Indian colony with ministers, and to suspend for three months, and thereafter to depose ministers disobeying sentences of transportation.

1701. The like instructions are given to the commission of this General Assembly, by Act 16.

1702. And renewed in the commission given by this Assembly.

1703. The like instructions are given to the commission of this General Assembly, by Act 5.

1704. To the commission of this General Assembly, by Act 20; and further, the care of the Highlands and Islands is particularly committed to them; and they are instructed to make an application to the parliament, for a commission for the plantation of kirks, and visitation of schools and colleges.

1705. The like instructions are given to the commission of this General Assembly, by Act 14; only they are discharged to meddle with sentences of synods, excepting causes specially referred to them by the Assembly.

1706. And the same instructions are renewed in the commission given by this Assembly.

1707. The like instructions as were given to former Assemblies to their commissions are given by Act 13 of this Assembly.

1708. The like instructions are given by this Assembly to their commission; only they are further ordered to apply to, and correspond with, the Lords of Council and Session, about the design of erecting schools in the north, the Highlands and Islands, and propagating the knowledge of God and our Lord Jesus Christ in these and foreign parts of the world, and to write to presbyteries to excite persons to contribute towards that design; and that presbyteries report an account of their diligence in that matter to the commission; and it is referred to the commission to use their endeavours for the execution of Acts 5, 8, and 15, of Ass. 1707.—Act 9.

1709. The like instructions, as formerly, are given by this Assembly, to their commission; only there is added a

clause, requiring the commission to take notice of what misrepresentations might be made, either at home or abroad, of the doctrine, worship, or constitution of this church; and that they take all decent and proper methods for the vindication of the church.—*Act 10.*

1710. The like instructions, as formerly, are given to the commission, by Act 15 of this Assembly.

1711. And again, by this Assembly, an article is added, requiring them to do what is proper to maintain the rights and privileges of this church; and another, empowering them to use their endeavours to get a school erected in every parish, according to law.—*Act 9.*

*Note.*—The like instructions are given as formerly, to the commissions of the General Assembly from 1712 to 1720: And for instructions by the Assembly to her commissions from 1720, forwards.—*See Commissions of Assemblies.*

1743. As a particular instruction, it is appointed, That all questions concerning the settlement of parishes, not already depending before this Assembly, but that may be brought before the commission, in pursuance of a general reference, shall not be decided by them otherwise than by appeal or reference from the synod within which the vacant parishes lie.—*Act 7.*

## KIRK.

1638. It is declared, That by divine, ecclesiastic, and civil warrants, this national kirk hath power and liberty to assemble and convene, in her yearly General Assemblies, and oftener, *pro re nata*, as occasion and necessity shall require; and the diet of the next Assembly is appointed, and all presbyteries, universities, and burghs, are warranted to send commissioners for keeping the same; and power is given to the presbytery of Edinburgh, *pro re nata*, and upon any urgent and extraordinary necessity (if any happen betwixt and the diet of the next Assembly), to give advertisement to all the presbyteries, universities, and burghs, to send their commissioners for holding an occasional Assembly: And if, in the mean time, it shall

please his majesty to indite a General Assembly, all presbyteries, universities, and burghs, are ordained to send their commissioners for keeping the time and place which shall be appointed by his majesty's proclamation.—*Act Sess. 26, Dec. 20.*

1638. The judicatories of this kirk, viz. kirk-sessions, presbyteries, provincial and General Assemblies, are restored to their full integrity, in their members, privileges, powers and jurisdictions, as they were instituted by the *Book of Policy*, registrated in the books of Assembly 1581, and ordained to be subscribed, 1590, 1591.—*Act Sess. 21, Dec. 17.*

An overture for putting in execution the Act of Assembly at Edinburgh 1588, Sess. 5, against burial in kirks, is referred to the care of presbyteries by Act Sess. 23, 24, December 17, 18, Art. 22.

1645. All former acts and constitutions made against burial in kirks, ratified and approven, and all persons, of whatsoever quality, inhibited and discharged to bury any deceased person within the body of the kirk, where the people meet for the hearing of the word, and the administration of the sacraments, or to hang pensiles or boards, to affix honours or arms, or to make any such like monuments to the honour or remembrance of any deceased person upon walls or other places within the kirk, where the public worship of God is exercised, as said is.—*Act Sess. 6, Aug. 11.*

1645. That the ministers and the people repair to the kirk half an hour before that time at which ordinarily the minister now entereth to the public worship; and that the exercise of reading and expounding, together with the ordinary exercise of preaching, be perfected and ended at the time which formerly closed the exercise of public worship.—*Act Sess. 14, Feb. 7.* The act is the opinion of the committee for keeping greater uniformity in this kirk.—*Art. 1.*

1647. That all presbyteries take special care that the present opportunity be diligently improved by all their members, as need is, before the commission of plantation of kirks, for the provision, plantation, convenient dividing,

dismembering, better uniting and enlarging of parish kirks, as they would not be censurable for their neglect; and that every presbytery send into the next General Assembly the names of all their parishes, with declarations which of them have ministers, which not, what is the largeness of their bounds, commodious or incommodious situation of each parish kirk; what is the number of communicants, what kirks are under patrons, and what not; who are the several patrons; what is the nature and quantity of the present provision, or possible ground of further provision for competent maintenance, where the same is not sufficiently provided already: As also, what parishes are united or disunited, or bettered already, and in what measure, by the said commission, that the General Assembly, being acquainted therewith, may do accordingly, both for censuring neglecters, and finding out overtures for the better furthering of the work in time to come; and that the next ensuing provincial synods crave account of the several presbyteries' diligence, and press that they may have it ready in writing to present to the provincial synods in April 1648, that so all may be in readiness, and full accounts made at the next General Assembly.—*Sess. 27, Aug. ult.*

1647. The following heads for kirk government for vindicating the truth against the dangerous tenets of *Erastianism* and independency, falsely called *liberty of conscience*, are unanimously approven, and agreed unto, viz. 1. That the ministry of the word, and administration of the sacraments of the New Testament, baptism and the Lord's supper, are standing ordinances instituted by God himself, and to continue in the church to the end of the world. 2. That such as administer the word and sacraments, ought to be duly called and ordained thereto. 3. That some ecclesiastical censures are proper and peculiar to be inflicted only upon such as bear office in the kirk; other censures are common, and may be inflicted both on ministers and other members of the kirk. 4. That the censure of suspension from the sacrament of the Lord's supper, inflicted because of gross ignorance, or because of a scandalous life and conversation; as likewise, the cen-



sure of excommunication, or casting out of the kirk, flagitious or contumacious offenders, are both warranted by, and grounded upon the word of God, and are necessary (in respect of divine institution) to be in the kirk. 5. That as the rights, power, and authority of the civil magistrate are to be maintained according to the word of God, and the confession of the faith of the reformed kirks, so it is no less true and certain, that the Lord Jesus Christ, the only Head, and only King of the kirk, hath instituted and appointed a kirk government distinct from the civil government or magistracy. 6. That the ecclesiastical government is entrusted and committed by Christ to the Assemblies of the kirk, made up of ministers of the word, and ruling elders. 7. That the lesser and inferior ecclesiastical assemblies ought to be subordinate and subject unto the greater and superior assemblies. 8. That notwithstanding hereof, the civil magistrate may, and ought to suppress, by corporal and civil punishments, such as, by spreading error or heresy, or by fomenting schism, greatly dishonour God, dangerously hurt religion, and disturb the peace of the kirk; which heads of doctrine the Assembly declare they firmly believe, own, maintain, and commend unto others, as solid, true, and orthodox, grounded upon the word of God, and consonant to the judgment both of the ancient and best reformed kirks; and a more particular examination of these one hundred and eleven propositions is committed and referred to the theological faculties in the four universities of this kingdom, and the judgment of each of these faculties, concerning the same, appointed to be reported to the next General Assembly; and presbyteries are appointed to send their judgment concerning the same to the next Assembly; and any others that please to peruse them, are allowed to make known, or send their judgment concerning them to the said Assembly.—*Act Sess. ult. Sept. 1.*

1647. A recommendation to parliament, and commission for plantation of kirks, to dismember such kirks as were incommodiously united in corrupt times, and adjoin the same (or kirks incommodiously erected by themselves).

to other kirks, when the present incumbents agree thereto; providing always the present ministers, who have laboured and endured the heat of the day, may enjoy the benefit of such parcels as shall be taken from them, during their life, is approved; and referred to the commission to assist any interested in these particulars, in prosecuting the same before these judicatures.—*Sess. ult. Sept. 1.*

### KIRK-SESSIONS.

1638. An overture, That no minister moderating in his session, usurp a negative voice over the members of his session; and where there are two or more ministers in one congregation, that they have equal power in voicing; that one of them hinder not the reasoning or voicing of any thing, whereunto the other minister or ministers, with a great part of the session, inclineth, being agreeable to the acts and practices of the kirk; and that one of the ministers, without the advice of his colleague, appoint not diets of communion or examination, neither hinder his colleague from catechising, and using other religious exercises, as oft as he pleaseth; is referred to the care of presbyteries, by *Sess. 23, 24. Dec. 17, 18. Art. 18.*

1639. That the session books of every parish be presented once a year to the presbyteries, that they may be tried by them.—*Act Sess. 22. Aug. 29. Art. 4.*

1642. That the old session elect the new one, both in burgh and land; and if any place shall vaik, in the session chosen, by death or otherwise, that the present session have the election of the person to fill the vacant room.—*Act Sess. 5, Aug. 1.*

### LECTURING.

1694. It is recommended to the several presbyteries, that they endeavour that ministers within their respective bounds, shall, in their exercise of lecturing, read and open up to the people, some large and considerable portion of

the word of God, to the effect the old custom; introduced and established by the directory, may, by degrees, be revived.—*Act 9.*

1704. The several ministers of the church are appointed and ordained to observe the foresaid Act 9, Ass. 1694, anent lecturing: And it is recommended to presbyteries, at their privy censures, to inquire how the said act has been observed by the several brethren within their bounds, and that an account of their diligence thereanent be inserted in their presbytery books, and that synods, at their privy censures, inquire how presbyteries have observed the said recommendation.—*Act 5.*

1706. That the several presbyteries, at their privy censures and parochial visitations, inquire diligently how ministers observe the acts of former Assemblies, concerning lecturing and expounding the Holy Scriptures.—*Act 10.*

## LETTERS

### TO AND FROM THE GENERAL ASSEMBLY.

1641. A letter from some ministers in England, craving the Assembly's advice respecting the form of church government that should be set up in place of episcopacy then to be abolished: And the Assembly's answer thereto; recommending to them unity in doctrine, discipline, and government with the kirks of Scotland.—*Sess. 18, Aug. 9.*

Letter from King Charles I. to the General Assembly; wherein he promises to ratify in parliament the constitutions of the Assembly 1639, is recorded in *Sess. 1, July 20*; and the Assembly's answer thereto, in *Sess. 18, Aug. 9.*

1642. Another letter from King Charles I. to the Assembly, in *Sess. 1, July 27.*

1643. Another letter from him to General Assembly in *Sess. 1, Aug. 2*: And the Assembly's answer thereto, giving his majesty a short hint of their proceedings in the public affairs of religion, in *Sess. ult. Aug. 19*, of that Assembly.

1642. Letter from some ministers in England to the General Assembly, shewing their desire that presbyterian church government should be established amongst them; that there should be an uniformity in doctrine, discipline, and government betwixt the nations; one confession of faith, one directory of worship, one public catechism and form of government; and craving the Assembly's advice respecting the means of advancing that work, and their assistance therein; and the Assembly's answer to that letter, shewing their earnestness with God, and the endeavours used by them, both with his majesty and the parliament of England, for the foresaid uniformity; and entreating that that work may be prosecuted with diligence by the joint labours of some divines in both kingdoms, who may prepare the same for the view of a more frequent and ecclesiastical meeting of the best affected to reformation in England, and of the commissioners of the General Assembly in Scotland; that in the end, it might be approved by the General Assembly here, and of all the kirks there in the best way that may be; and at last, of the National Assembly, when met there: And shewing them that the Assemblies at Edinburgh shall, in their name, receive and return answers for promoting so great a work.—*Sess. 11, Aug. 5.*

1642. A letter from the General Assembly to the commissioners from Scotland at London entreating them to use all lawful means, arguments, and occasions, to advance unity in religion, and uniformity in church government, betwixt the kingdoms.—*Sess. 11, Aug. 5.*

1642. A letter from the distressed professors in Ireland, after the rebellion, to the General Assembly, begging to be supplied with ministers, and an answer thereto, are recorded in *Sess. 13, Aug. 6.*

1643. Another letter from Ireland to the same effect, and begging that ministers fled from them might be declared transportable, that they might lie open to a call from them, is recorded in *Sess. 4, Aug. 5.*

1643. And in answer to the above, there is a commission granted to some ministers to go to Ireland.—*Sess. ult. Aug. 19.*

1643. Another letter from some ministers in England to Assembly 1643, craving the help of their prayers in their present public danger from a popish and prelatical party, and their advice in what remains to be done further by them, for making their own and their kingdom's peace with God, and what may be the happiest course for uniting the protestant party among them more firmly against Antichrist.—*Sess. 8, Aug. 10, Ass. 1643*: And the Assembly's answer to the letter of these ministers, comforting them in their sad calamities, and encouraging them to go on in the Lord's work, and to enter with this kirk into a perpetual covenant with the Lord, for themselves and their posterity.—*Sess. ult. Aug. 19.*

1643. Letter from the assembly of divines in England to the General Assembly 1643, thanking them for their zealous assistance and concurrence in furthering the work of reformation.—*Sess. 14, Aug. 17, Ass. 1643*: And the Assembly's answer to that letter of the assembly of divines in England, shewing their affection to them, and sympathy with them in the work of the Lord, and that they had approven of the draught of the solemn league and covenant betwixt the kingdoms, and had commissioned some brethren to treat with them of the common affairs of religion and safety.—*Sess. ult. Aug. 19.*

1644. Letter from the presbytery with the army in England to General Assembly 1644, giving them an account of the state of their affairs, and entreating them to stir up the people to prayer and humiliation, that God would preserve peace and truth at home, and make the people of England fit to embrace the intended reformation.—*Sess. 2, May ult. Ass. 1644*: And the Assembly's answer thereto, shewing that they had set down an order to be kept thereafter, in sending ministers to the army, which they had sent with their answers.—*Sess. 6, June 3.*

1644. Letter from the synod of divines in the kirk of England to the General Assembly 1644, to the same purpose with the letter from the commissioners at London.—*Sess. 7, June 4*; and the Assembly's answer thereto.

1644. Letter from the commissioners at London to the

General Assembly, giving them an account of their diligence, and of the advancement of the work of reformation in England; particularly, that the solemn league was taken there and prelacy abolished; and begging the help of their prayers; and the Assembly's answer thereto, sent to them with their commission, are recorded in *Sess. 7. June 4.*

1644. A letter from the General Assembly to the kirks in the Netherlands (written in Latin), thanking them for the assistance given to the work of reformation in this kingdom, and for the supply sent to the distressed christians in the north of Ireland; entreating them, in their name, to thank the states and the people for their bounty in that respect; and thanking the kirks there for the warning given to the reformed churches, of their danger from impostors that had arisen, falsely assuming the name of Jesus, and other servants of Antichrist, is recorded in *Sess. 7. June 4.*

1645. Letter from the commissioners at London to the General Assembly, giving a farther account of their proceedings; and desiring that the directory for worship, then concluded in both houses of parliament in England, and sent down to Scotland, might be returned with all expedition, that it might be published there, and put in practice; that any differences among particular brethren about the same might be laid aside, and that the Assembly might appoint a commission, to whom they might have recourse for advice, is recorded in *Sess. 2, Jan. 23*: And the Assembly's answer thereto, shewing their joy for the advances made in the uniformity of religion, encouraging them to continue in their work, and referring particulars to the brethren returning to them, is recorded *Sess. ult. of the same Assembly.*

1645. Letter from the synod of divines in the kirk of England to the General Assembly, giving an account of the advance made in the work of reformation there, and the method of their procedure therein; and transmitting the directory for worship.—*Sess. 2, Jan. 23, Ass. 1645*: And the Assembly's answer thereto, shewing their having approved the directory for worship, and the propositions

for kirk government, and ordination of ministers; and renewing their commission to their commissioners at London.—*Sess. ult. Feb. 13.*

A letter from his majesty to the General Assembly, declaring his real resolutions to comply with the desires of his parliaments in both kingdoms, and those entrusted by them for the settling of truth and peace in all his dominions; and to maintain religion there, as established in doctrine, worship, and church government; to endeavour the settling of peace in Scotland, and the reformation of religion and peace in England and Ireland, recorded in *Sess. 2, June 4, 1646*: And the Assembly's answer thereto in *Sess. ult. June 18, Ass. 1646.*

1646. A letter from the General Assembly to the parliament of England, blessing God for the progress they had made in settling uniformity in religion; and entreating them to establish all the ordinances of Jesus Christ in the full integrity and power thereof, according to the solemn league and covenant, professing their desire to hold fast the bonds of that covenant as sacred and inviolable, and promising to themselves the same from that parliament, is recorded in *Sess. ult. June 18.*

1646. A letter from the Assembly, to the mayor, aldermen, and common council of the city of London, commending their zeal for the common cause of religion, and encouraging them to steadfastness therein.—*Sess. ult. June 18.*

1647. Letter from the General Assembly to the Scotch ministers in Poland, Sweden, Denmark, and Hungary, beseeching and warning them to seek after the knowledge of Christ; and for help therein to pray that God would give them pastors according to his heart; and to consult and agree amongst themselves, with consent of the superiors under whom they live, for setting up the worship of God and ecclesiastical discipline among them, according to the form established and received in their mother kirk, and for a way of settled maintenance of pastors and teachers; promising that the commissioners of Assembly will, upon their desire, provide some able and godly ministers for them; and likewise, communicating to them

the directory for the public worship of God, the form of ecclesiastical government and discipline, with the confession of faith and catechisms of this church; and in the meantime, exhorting them to private and secret prayer; to steadfastness in that faith in which they were baptised; to a suitable conversation; and to a sense of their country's sufferings; is recorded in *Sess. ult. Sept. 1.*

1648. A letter from the synod of divines in England to the General Assembly, regretting the hindrances the work of reformation had met with in both kingdoms; and commending the zeal, constancy, and orthodoxy of the Church of Scotland.—*Sess. 1, July 12:* And the Assembly's answer to the foresaid letter, shewing the Church of Scotland's firmness to their principles and solemn league; and particularly, giving a testimony against the then unlawful engagement in war; blessing God for their unity and soundness in the faith; and entreating them to give a public testimony for Christ, both against sectaries and malignants, and seasonably to warn the houses of parliament to promote the work of reformation and uniformity according to the covenant, and gravely to warn their dissenting brethren what a door they open to sectarianism, by their tenet of independency; and they persuade themselves that the well-affected in England will agree or hearken to no motion of any such treaty of peace as leaves out the best security of religion, and the cause of God, and the solemn league and covenant.—*Sess. 24, Aug. 2.*

1649. A letter from the Assembly to King Charles II., declaring their duty and loyalty to his majesty; and that they did from their hearts abominate and detest that horrid act of the sectaries against the life of his royal father; and that it was the unfeigned and earnest desire of their souls, that the ancient monarchical government of these kingdoms might be established and flourish in his majesty's person and family; and that there is nothing, under the glory of God and cause of the Lord Jesus Christ, for which they did more heartily solicit the throne of grace, or for which they would more readily expose to hazard all that is dear to them in the world, than for this: They



warn him of the evil of the ways and courses he is led into by evil counsels: particularly his cleaving to, and entertaining such men as his trustiest counsellors, who have not the glory of God, nor good of his people before their eyes; but seek their own interests only, to the hazard and utter subversion of his throne, the ruin of his royal family, and the desolation of his kingdoms; his settling a late peace with the Irish papists, contrary to the laws of God and of the kingdoms; and of the danger of these ways: They exhort him to repentance, and that he would sincerely and cordially contribute his royal allowance and authority, for establishing in all his dominions the reformation of religion in doctrine, worship, and government, and would conform his own practice, and the worship of God in his royal family, to that gospel simplicity and purity which is held forth in the word of God and directory for worship; and would grant not only his royal approbation of the covenants, but that also himself would join with his people therein, and cause all of them stand to it by his royal command; is recorded in *Sess. ult. Aug. 6.*

1690. Letter from his majesty King William to the General Assembly, shewing the motives of his countenancing that Assembly; and recommending to them calmness and unanimity in their proceedings; and the Assembly's answer thereto, thankfully acknowledging the goodness of God and his majesty's kindness as an instrument in relieving the church and kingdom from its late confusions, and re-establishing the same, and countenancing that Assembly; and shewing their resolutions to a calm and peaceable procedure; and professing their duty and loyalty to their majesties; are recorded in *Acts 2 and 3.*

The Assembly's letter to his majesty at the closing of the same Assembly, giving him an account of their proceedings, is recorded in *Act 14.*

1694. A letter from the General Assembly to King William, acknowledging his majesty's kindness to this church; professing their loyalty to their majesties, declaring their resolutions faithfully to endeavour, amidst all their difficulties and discouragements, the healing, composure, and

peace of this church, the furthering of their majesties' service in their station, as the Lord should enable them.—  
*Act 3.*

1696. Another letter from the General Assembly to King William, blessing God for his majesty's government and the preservation of his person; thanking him for his royal favours to the church; entreating the continuance thereof, and that he would command the vigorous execution of the laws against ungodliness and unrighteousness: They profess their loyalty, and pray for his prosperity.—  
*Act 24.*

1697. Another letter from King William to the Assembly, recommending dispatch and moderation, the restraining of vice, planting of vacant churches, and giving assurance of his resolution to maintain presbyterian government; and the Assembly's answer thereto; promising the prosecution of what is therein recommended, and begging the rigorous execution of the laws against profanity; are recorded in *Act 4.*

1698. Another letter from the king to the Assembly, to the same effect with the former; and, further, recommending the assumption of the episcopal ministers, whose lives and doctrine render them useful to the church; and the Assembly's answer thereto, are recorded in *Acts 2, 3.*

1699. Another letter from the king, and the Assembly's answer thereto, are in *Acts 2, 3.*

1700. Another from the king, to the same effect with the former, and the Assembly's answer, are recorded in *Acts 2, 3.*

Letter from the General Assembly to the ministers sent by the commission of the General Assembly 1699 to the African and Indian company's colony in Caledonia, comforting them and strengthening their hands in their work.—*Act 16.*

1701. A letter from his majesty, *Act 2*, to the same effect; and the Assembly's answer, acknowledging, as a signal proof of his majesty's tender care and concern for this church, his giving the royal assent, in the last session of parliament, to the acts therein made, for ratifying, and further confirming the Confession of Faith, and the pre-

sent established presbyterian government of this church, for the more effectual preventing of the growth of popery and suppressing profaneness and immorality; and shewing, that the last Assembly had sent a commission to the islands of Orkney and Zetland, for planting churches and advancing the knowledge of God among the people, who had in a good measure executed the same.—*Act 3.*

1702. Another from the king, Act 2, and the Assembly's answer, of the same contents with the former; only the Assembly take notice of the account they had of his majesty's indisposition; and pray for his preservation.—*Act 6.*

1703. A letter from her majesty Queen Anne, to the same effect with King William's; and containing also an assurance of protecting the presbyterian government; and the Assembly's answer thereto, congratulating her majesty's accession to the throne, are recorded in *Acts 2, 3.*

1704. Another letter from her majesty in Act 2; and the Assembly's answer thereto; thanking her majesty for giving her royal assent, in the last session of parliament 1703, to the act for ratifying the protestant religion and presbyterian government of this church; and for her late gracious and seasonable letter to her council, ordering the redress of grievances.—*Act 3.*

1705. Another from the queen, Act 2; and the Assembly's answer thereto, of the same purpose with the former.—*Act 3.*

1706. Another from her majesty, with the Assembly's return thereto, are recorded in *Acts 2, 3.*

1707. Queen Anne's letter to the Assembly; and the Assembly's return thereto, of the same strain with former letters, are in *Acts 2, 3.*

1708. Another letter from the queen to the Assembly, acknowledging her satisfaction with the zeal and affection that the ministers of this church shewed to her person and government, upon the appearance of an invasion by her enemies; and the Assembly's answer thereto.—*Acts 2, 3.*

The queen's letters to Assemblies 1709, 1710, 1711, 1712, 1713, 1714; and the Assembly's answers thereto, are all recorded in Acts 2, 3, of these Assemblies.

1715. King George I.'s letter to the Assembly, wherein he promises to maintain the presbyterian Church of Scotland, her rights and privileges, as he had engaged to do upon his accession to the crown, and to protect her from any illegal insults and encroachments being made upon her, of what kind soever, is recorded in Act 2; and the Assembly's answer thereto, wherein they thank God for his peaceable accession to the throne; they declare their full acquiescence in the above-mentioned solemn engagement which his majesty has come under, and their firm resolution to testify, by all proper methods, their zeal for, and affection to, his majesty and the protestant succession in his royal family, is recorded in Act 3 of this Assembly.

1716. The king's letter to the Assembly; wherein he thanks them for their steady loyalty during the late rebellion, and assures them again of his unalterable resolution to maintain the Church of Scotland in the full enjoyment of all her just rights and privileges, Act 2.; and the Assembly's dutiful return thereto.—*Act 3.*

1717. The king's letter to the Assembly; wherein he declares his satisfaction with the constant zeal and affection of the Church of Scotland to his person and government, which neither the force and violence of his open enemies nor the artful contrivances of factions and ill-designing men have been able to alter; and he assures them of his firm resolution to promote the interest, and inviolably to maintain the rights and privileges of the presbyterian Church of Scotland, Act 2.; and the Assembly's dutiful answer in *Act 3.*

1718 to 1724. The king's letters to the Assembly from 1718 to 1724 inclusive; and the Assembly's answers, are recorded in Acts 2 and 3 of these Assemblies.

1726-27. The king's letters and the Assembly's answer are contained in *Acts 2, 3.*

1728. King George II.'s first letter to the Assembly, declaring his purpose of maintaining and supporting the presbyterian Church of Scotland in the full enjoyment of

her rights and privileges, as by law established, and the Assembly's answer, are in *Acts* 2, 3.

1729 to 1743. The king's letters and the Assemblies' answers are recorded in *Acts* 2, 3 of Assemblies, from the year 1729 to 1743.

1744. The king's letter, and the Assembly's answer humbly thanking his majesty for the countenance he gave to the last Assembly's scheme for provision to the widows and orphans of ministers in Scotland.—*Acts* 2, 3.

1745. The king's letter, and the Assembly's answer are recorded in *Acts* 2, 3.

1746. His majesty's letter to the Assembly, containing his thanks for their zeal and attachment during the rebellion, and trusting that they will continue to give proofs of their loyalty and affection, by exciting the people under their charge to a due sense of the blessings they enjoy under his government, and to a just abhorrence of the pernicious designs of those who have endeavoured to overturn our religion, and our constitution, and to introduce popery and arbitrary power; and the Assembly returns a dutiful answer.—*Acts* 2, 3.

1746. Letter from the General Assembly to the divines of the kirk of England assembled at Westminster, exhorting them to continue their diligence in advancing unity in religion, and suppressing the growth of sects and sectaries.—*Sess. ult. June* 18.

1746. The Assembly, in a letter, present their humble and thankful acknowledgments to his Royal Highness the Duke of Cumberland, for his generous resolution in coming to be, under providence, the deliverer of the church and nation of Scotland from the miseries of the late unnatural rebellion.—*Act* 6. The Duke returned the Assembly a suitable answer.

1747 to 1760. The king's letters and the Assembly's answers are contained in *Acts* 2, 3 of these and intervening Assemblies.

1761. King George III.'s first letter to the Assembly; wherein he promises to maintain and support the presbyterian church of Scotland, in all her rights and privileges, and protect her from all insult and encroachment; and

the Assembly returns an affectionate and dutiful answer.—*Acts 2, 3.*

1762 to 1797. The king's letters, and Assemblies' answers, in *Acts 2, 3*, in these and intervening years.

1798. The king's letter recommends to the Assembly to persevere in their attention to the advancement of religion, the preservation of sound doctrine, and the checking of loose notions both in faith and morality, which disgrace the times, and which, unless timely counteracted, must destroy all good principles in the hearts of men, dissolve the bands of society, and provoke the displeasure of God. The Assembly returns a dutiful answer.—*Acts 2, 3.*

1799 to 1810. The king's letters, and the Assemblies' answers, are contained in *Acts 2, 3*, of these and intervening years.

1811 to 1819. The prince regent's letters, and the Assembly's answers, are contained in *Acts 2, 3*, of these and intervening years.

1815. The king in his letter to the Assembly, intimates that the commissioner had instructions to signify steps taken to put some stop to the spreading of ignorance and profaneness, and the trafficking of popish priests' emissaries in the Highlands and Islands of Scotland; and the Assembly return their dutiful thanks for the bounty of £1000 for the encouragement of preachers, where ignorance abounds.—*Acts 2, 3.*

1820. A letter from his majesty George IV, declaring his satisfaction at having an opportunity of addressing the Assembly for the first time since his accession to the throne, expressing his sincere reliance on their loyalty and attachment to his person and government, exemplified, even in a vicarious character, alluding generally to the recent occurrences of the country, and recommending to the clergy of Scotland to inculcate on their flocks at once a respect for the laws of God, and the temporal institutions of man.—*Act 2.* The Assembly answered, that they would, to the utmost of their power, endeavour to inculcate on their flocks a due subordination to all in authority; that they would repel every inroad of irreligion

and infidelity ; that they deplored the fatal effects of these unhappy tenets, recently so fearfully exemplified, and that, in all respects, they would endeavour to prove themselves loyal and dutiful subjects, concluding with an earnest prayer for the blessing of heaven on the king's person and government.—*Act 3.*

1820 to 1830. The letters from his majesty King George the IV, to the General Assembly, and their answers thereto, are annually inserted in the printed Acts of Assembly.

### LIBRARIES.

1704. The Assembly declares their approbation of the design and project set on foot, by some piously inclined persons, in this and the neighbouring nation of England, for erecting libraries in the Highlands of this kingdom, in which good advances have been made ; and appoints a letter of thanks to be written to the society in England for propagating christian knowledge, and to others who have given their concurrence and assistance in this matter, and empowers their commission to apply to the Lords of his majesty's privy council, or treasury, for their assistance, in order to bring down the said books from England, and transmit the same to the places underwritten, at which they are to be fixed in this kingdom, to give their best advice and assistance for making this project effectual, and to use their endeavours for getting a new impression of the bible in Irish, and renews the recommendation contained in Act 16, Ass. 1699, to the synod of Argyle, for translating the Confession of Faith, and larger catechism in the Irish language, with a vocabulary of the most necessary and usual terms in divinity. And likewise renews the 20th Act of Ass. 1694, concerning the use of the Irish psalms and shorter catechism. *Act 17.*

1705. Act dividing the whole libraries for the Highlands, both presbyterial and parochial, as follows, viz. The presbyterial libraries (whereof there are nineteen in all) thus :—To the presbytery of Zetland, one ; Orkney,

one; Caithness, one; Sutherland, one; Ross, three; Inverness, one; Aberlour, one; Abernethy, one; Strathbogie and Fordice, one; Dunkeld, one; Argyle, five; Dunbarton, one. The odd presbytery library is bestowed on the synod of Argyle, with a special respect to the remote and large islands, such as Lewis, and that in place of the distribution made by the former Act 17, Ass. 1704. The parochial libraries, being in number fifty-eight, are distributed as follows, viz. To Zetland, two; Orkney, three; Caithness, two; Sutherland, two; Ross, four; Inverness, three; Aberlour, two; Abernethy, one; Alford, one; Kincardine, two; in the bounds of the synod of Angus and Mearns, three; in the presbytery of Dunkeld, four; Auchterarder, two; Dumblain, two; Dunbarton, two; and for the bounds of the synod of Argyle, twenty-three; and these parochial libraries are appointed to be fixed at such places as the respective synods and presbyteries find most convenient; and a committee is appointed for managing the said libraries in the manner mentioned in the act, and for digesting in order some presses of books not methodised and sorted (which are besides the seventy-seven libraries), and distributing them to such places as have most need, with a special regard to the remote isles.—*Act 12.*

1706. There are several instructions given to the commission, and particularly to require an account from the committee of Assembly 1705, for managing the said libraries, how they have distributed the same, and from the agent, how he has obeyed the orders of that committee anent sending the libraries and Irish bibles to the respective places appointed for them, and to call for an account from the respective presbyteries of the receipt of their proportions of these bibles and libraries, and how they have disposed of them, according to the order of Assembly 1705, and their committee; and presbyteries are appointed to send these accounts to the commission or committee to be appointed by them for this affair; and that these accounts be sent in writing, subscribed by the moderator and clerk of the presbytery; and the commission is ordained to take care that these accounts be recorded



in a particular register for that purpose ; and it is recommended to the commission, or their committee, to distribute eleven boxes lately come down from England, and any libraries or books that shall be sent down betwixt and the next Assembly, to such places of this church and nation as have most need, and may best answer the design of the donors ; and that commission is also instructed to inquire into the state of the Highlands and Islands, how they are planted with ministers, and of the remaining paganish customs among them, and of the increase of popery, and how they are provided with schools ; what places most need help in these matters, and what encouragement these may expect, who incline to enter into a society for erecting and maintaining charity schools for educating poor and indigent children ; and all synods and presbyteries concerned in the Highlands and Islands to send their accounts thereof to the commission, who are to prepare overtures thereanent.—*Act 18.*

1709. It is recommended to such presbyteries as had not received any of the books sent from England for making up public libraries, to contribute amongst themselves, in order to lay a foundation for a library in each presbytery seat ; and also to endeavour to procure collections in their several parishes, less or more, for that end ; and it is referred to the commission to forward the above recommendation ; and presbyteries who have got a share of these libraries are desired to send accounts to the commission of their receipt of them, where they are fixed, how they have observed the rules sent with them, and what improvements they are making of them, and other things relating to these libraries enjoined on them by acts of former Assemblies and their commissions.—*Act 11.*

### LORD'S DAY.

1638. An overture for preventing the profanation of the Lord's day, occasioned by the holding of markets within burghs on Mondays and Saturdays, by recommending to the burghs to take care for restraining this

abuse, and to find out some way for repressing this evil, and changing the day, is referred to the consideration of burghs by *Sess.* 23, 24, *Dec.* 17, 18, *Act* 14.

1638. For preventing the profanation of the Sabbath in landward, especially for want of divine service in the afternoon, the act of Assembly held at Dundee, July 12, 1580, *Sess.* 10, for keeping both diets, is ordered to be put in execution.—*Act Sess.* 23, 24, *Dec.* 17, 18, *Art.* 15.

1639. The execution of the old acts of Assemblies against the breaking of the Sabbath-day, by the going of mills, salt-pans, salmon fishing, or such like labour, is recommended to the several presbyteries. And the act of Assembly held at Holyroodhouse 1602, *Sess.* 5, discharging all such labour of fishing, as well white fish as salmon, and going of mills of all sorts upon the Lord's day, under the pain of incurring the censures of the kirk; and ordaining the commissioners of that Assembly to mean the same to his majesty, and to desire that a pecunial pain might be enjoined upon the contraveners of the said act; is revived and renewed, and the tenor thereof subjoined.—*Sess.* 23, 24, *Dec.* 17, 18, *Ass.* (1638), and *Act Sess.* 21, *Aug.* 29.

1643. All acts made against salmon fishing, or any other labour on the Lord's day, declared not only to be against servants who actually work, but also against masters whose hired servants they are.—*Act Sess.* 11, *Aug.* 14.

1646. All skippers and sailors discharged and inhibited to begin any voyage on the Lord's day, or to loose any ships, barks, or boats out of harbours or roads upon that day, and who shall do in the contrary thereof shall be censured as profaners of the Sabbath; and it is recommended to presbyteries, and others whom it may concern, to see that both the acts of Assembly and parliament made for censuring and punishing profanation of the Lord's day be put in execution against them.—*Act Sess. ult. June* 18.

1690. It is recommended to kirk-sessions and presbyteries carefully to put in execution the acts of former General Assemblies against the profanation of the Lord's day, and

particularly by unnecessary sailing and travelling.—*Act 7, § 4.*

1690. Application appointed to be made to the parliament for altering all markets in royal burghs and other places on Saturdays and Mondays.—*Act 7, § 5.*

1705. All the brethren of the ministry, and other officers of the church, are, in the fear of God, earnestly exhorted to contribute their utmost endeavours, in their stations, for suppressing the gross profanation of the Lord's day, by idle vaguing, unnecessary travelling, and otherwise, by a vigorous and impartial, yet prudent exercise of the discipline of the church, and by holding hand to the execution of the laudable laws of the nation against the guilty, in such way and manner as is allowed and required by law; and it is recommended to the commission to address the Lords of Privy Council to give such orders, and to take such courses for restraining these abuses, as they in their wisdom shall judge most effectual.—*Act 9.*

1708. Each presbytery within this church is appointed to nominate two or three of their number to attend the lords commissioners of justiciary at their first circuit that falls to be in their bounds, and represent to them the profanation of the Lord's day, by travelling thereupon, carrying goods, driving cattle, and other abuses: And the Assembly seriously recommends to the said lords to take such effectual courses as in their wisdom they shall think fit, to restrain and punish the foresaid abuses, which will be a singular service done to God and his church; and all ministers are enjoined, from their pulpits, to advise their people, among whom such practices are, of the great hazard their immortal souls are in by such courses, and that, if they continue therein, there will be a necessity to represent to the lords justices all transgressors of the laws made against profaning the Sabbath, and to warn them to abstain therefrom in time coming; and all ministers and church judicatures are enjoined to take care that former acts of Assembly made against breach of the Lord's day may be observed, and not only to proceed with ecclesiastical censures, but apply to the justices of the peace in their bounds, and other magistrates, to put in execu-

tion the good laws already made against the breach of the Sabbath, and other immoralities.—*Act 12.*

1823. The General Assembly approved of the report of a committee upon the profanation of the Sabbath, and appointed the opinion of the late Lord President Blair upon this subject to be inserted in the Acts of Assembly.—*Act 12.\**

### LORD'S SUPPER.

1638. An overture for renewing Act 25, Dec. 1562, Sess. 5, touching the more frequent administration of the Lord's supper, both in cities and landward; and that some course be taken for furnishing the elements, where the minister of the parish hath allowance only for once a year, is referred to the consideration of presbyteries; and it is declared, that the charges be rather paid out of that day's collection, than that the congregation want the more frequent use of the sacrament.—*Sess. 23, 24, Dec. 17, 18, Art. 12.*

1645. It is ordained, 1. That in the administration of the Lord's supper, congregations be still tried and examined before the communion, according to the by-gone practice of the kirk. 2. That there be no reading in time of communicating; but the minister making a short exhortation at every table, that thereafter there be silence during the time of the communicants' receiving, excepting only when the minister expresseth some few short sentences, suitable to the present condition of the communicants in the receiving, that they may be incited and quickened in their meditations in the action. 3. That distribution of the elements among the communicants may be universally used; and for that effect, that the bread be so prepared, that the communicants may divide it amongst themselves, after the minister hath broken and delivered it to the nearest. 4. That while the tables are dissolving and filling, there be always singing of some portion of a psalm, according to the custom. 5. That

\* *Fide* opinion and relative acts of parliament, in appendix.

the communicants, both before their going to, and after coming from the table, shall only join themselves to the present public exercise then in hand. 6. That when the communion is to be celebrated in a parish, one minister may be employed for assisting the minister of the parish, or at the most two. 7. That there be one sermon of preparation delivered in the ordinary place of public worship, upon the day immediately preceding. 8. That before the serving of the tables, there be only one sermon delivered to those who are to communicate, and that in the kirk where the service is to be performed; and that in the same kirk, there be one sermon of thanksgiving after the communion is ended. 9. When the parishioners are so numerous that their parish kirk cannot contain them, so that there is a necessity to keep out such of the parish as cannot conveniently have place, that in that case, the brother who assists the minister of the parish, may be ready, if need be, to give a word of exhortation, in some convenient place appointed for the purpose, to those of the parish who that day are not to communicate, which must not be begun until the sermon delivered in the kirk be concluded. 10. That of these who are present in the kirk where the communion is celebrated, none be permitted to go forth while the whole tables be served, and the blessing pronounced, unless it be for more commodious order, and other cases of necessity. 11. That the minister who cometh to assist, have a special care to provide his own parish, lest otherwise, while he is about to minister comfort to others, his own flock be left destitute of preaching. 12. That none coming from another parish shall be admitted to the communion without a testimonial from their own minister; and no minister shall refuse a testimonial to any of his parish who communicate ordinarily at their own parish kirk, and are without scandal in their life for the time; but this is no ways to prejudice any honest person, who occasionally is in the place where the communion is celebrated, or such as by the death or absence of their own minister, could not have a testimonial.

—*Act Sess. 14, Feb. 7, Art. 3.*

1690. The administration of the Lord's supper to sick

persons in their houses, and all other use of the same, except in the public assemblies of the church; and also the administration of baptism in private, that is, in any place, or at any time when the congregation is not orderly called together, to wait on the dispensing of the word, are discharged: And the said act is appointed carefully to be observed, when and wherever the Lord giveth his people peace, liberty, and opportunity for their public assemblies. And it is appointed to be publicly intimated in all the churches.—*Act 10.*

1701. It is recommended to presbyteries to take care that the sacrament of the Lord's supper be more frequently administered within their bounds, and that the number of ministers to serve thereat be restricted, so that neighbouring churches be not thereby cast desolate on the Lord's day.—*Act 19.*

1706. It is recommended to the several ministers within this national church, to take as strict a trial as can be of such as they admit to the Lord's supper, especially before their first admission thereto; and that they diligently instruct them, particularly as to the covenant of grace, and the nature and end of that ordinance, as a seal thereof; and charge upon their consciences the obligations they lie under from their baptismal covenant, and seriously exhort them to renew the same.—*Act 11.*

1711. It is recommended to presbyteries to do what they can to get it so ordered, that the sacrament of the Lord's supper be duly observed in their bounds through the several months in the year.—*Act 6.*

1712. All presbyteries are enjoined to inquire if the acts appointing the frequent celebration of the Lord's supper be duly observed by all the brethren; and in case any minister neglect to celebrate the sacrament of the Lord's supper in his parish for a whole year, the presbytery is to call for an account of the reasons of his omission, and to approve or disapprove of the same as they shall see cause, and to record their diligence in this matter; and synods are enjoined at their several meetings to inquire at presbyteries what care they have taken to execute the said acts, and other recommendations of Assem-

blies in this behalf, and to record their diligence in their books.—*Act 11.*

1724. Act 6, Ass. 1711, revived and renewed. And presbyteries and kirk-sessions are enjoined to endeavour to reform disorders that sometimes take place at the celebration of the Lord's supper: And for this end, presbyteries are to take care that neighbouring congregations be supplied with sermon on the Lord's day upon which the sacrament is to be dispensed in a place; and that ministers, on the preparation day, give public warning, that such as are guilty of disorder, shall be censured according to the degree of the offence; and presbyteries are appointed, at their privy censures, to inquire at the several members respecting the observation of the foresaid acts, and to record their diligence in this matter: And synods are enjoined to see the punctual observation of these acts; and particularly, at their privy censures, to call their respective presbyteries to answer with regard to their observance of what is here enjoined; and to record their diligence in their books.—*Act 6.*

1727. It is enjoined that the Act of the 7th Feb. 1645 be strictly observed; and it is left to the several judicatories of the church to give directions in cases of this nature as they occur.—*Act 8.*

1751. Act 11, Ass. 1712, is renewed; and it is appointed, That every presbytery at their privy censures before the winter synod, inquire at each of their brethren, whether they have administered the sacrament of the Lord's supper, once at least, the preceding year, and in case any of them have not done it, their excuses, and what the presbytery has done in approbation or disapprobation thereof, are to be marked in their minutes, and reported in writing to the synod; and if a member is absent from the diet for privy censures, he shall send up his excuse in writing either to that diet, or to the next synod; and in the event of brethren's failing in both these injunctions, it is appointed, That the presbytery, in the first meeting after the synod, shall call such to an account, and report to next synod, that they may do in it as they shall see cause.—*Act 7.*

## MARRIAGE.

1638. Marriage, without proclamation of banns, discharged, conform to the former acts, except the presbytery, in some necessary exigents, dispense therewith.—*Act Sess. 23, 24, Dec. 17, 18, Art. 21.*

1639. An overture, that course may be taken for restraining of people from passing into England to marry, as being the occasion of great inconveniences, is allowed; and recommended to the parliament, that they would appoint a pecunial sum to be paid by the contraveners.—*Act Sess. 22, Aug. 29, Art. 2.*

1690. The celebration of marriage, without due proclamation of banns, according to order, three several Sabbaths in the respective parishes, is discharged; and it is recommended to presbyteries to censure the contraveners.—*Act 7, § 3.*

1690. It is declared, That, before any proclamations be made, the names and designations of the persons to be married, and their parents, tutors and curators, if they have any, be given up to the minister of the bounds in which any of them lives and resides, that thereby it may be known if their parents and friends give consent thereto; and that the minister, being satisfied herein, order the proclamation to be made three several Sabbaths; which, when made, shall be immediately before divine worship begin in the forenoon; and the persons to be proclaimed, their names and full designations, by which they are designed in writ, and the contracts of marriage, be fully and audibly expressed; and that, where there are more churches collegiated in the place or town, the proclamation be made in all and every one of the churches within the city or town, where they or any of the persons to be married reside; and this to be attested to the minister that marries them; with certification of the censures of the church against the transgressors herein.—*Act 5.*

1711. It is appointed, That the acts of Assembly concerning proclamation of banns be duly observed; and



that inquiry be made, that the persons desiring marriage be not within the forbidden degrees, and be single and free persons; and that all concerned do consent.—*Act 5.*

1784. It is resolved, That no session-clerk in this church, proclaim any persons in order to marriage, until he give intimation to the minister of the parish in a writing, dated and subscribed by him, of the names, designations, and places of residence of the parties to be proclaimed; and obtain the said minister's leave to make the said proclamation, with certification, that if any certificate of proclamation of banns be given, without observing the above order, the said certificate shall be held as a false certificate; and the session-clerk who subscribes it shall be censured accordingly: And in case of a vacancy, the above intimation is to be made to two of the elders of the parish. This resolution appointed to be sent to presbyteries, to be by them transmitted to sessions in order to its being observed.—*Act 8.*

### MINISTERS.

1638. The act of the Assembly held at Edinburgh March 26, 1596, anent the entry and conversation of ministers, ratified, and ordained to be put in execution in every presbytery; and for that end, copies thereof are ordered to be given to each presbytery, under the clerk's hands, the substance whereof is as follows:—First, to prevent

*Corruptions in the office of the ministry*, it is ordained, That in time coming more diligent inquisition and trial be made of all such persons as shall enter into the ministry; as especially in these points. 1. That the intrant shall be posed upon his conscience before the great God, and that in the most grave manner, what moveth him to accept of the office and charge of the ministry upon him. 2. That it be inquired, if any, by solicitation or moyem, directly or indirectly, press to enter into the said office; and if it be found, that the solicitor be repelled; and that the presbyteries repel all such of their number from vot-

ing in the election or admission as shall be found moyeners for the solicitor, and posed upon their conscience to declare the truth to that effect. 3. It is ordained, that none seek presentations to benefices, without the advice of the presbytery within the bounds whereof the benefice is; and if any do in the contrary, that they be repelled, as *rei ambitus*. 4. That the trial of persons to be admitted to the ministry thereafter, consist not only in their learning and ability to preach, but also in conscience and feeling, and spiritual wisdom; and namely in the knowledge of the bounds of their calling, in doctrine, discipline, and wisdom, to behave themselves accordingly with the divers ranks of persons within their flocks: as namely, with atheists, rebellious, weak consciences, and such other where the pastoral charge is most kythed; and that they be meet to stop the mouths of the adversaries; and such as are not qualified in these points be delayed till further trial, and they be found qualified: And it is recommended, that the principal places of the realm be provided by them of most worthy gifts, wisdom, and experience; and that none take the charge of greater numbers of people than they are able to discharge; and an act of the provincial synod of Lothian, made to this purpose, is approved. 5. That such as shall be found not given to their book and study of the Scriptures, nor careful to have books, nor given to sanctification and prayer; that study not to be powerful and spiritual, not applying the doctrine to corruptions, which is the pastoral gift; obscure and too scholastic before the people; cold, and wanting of spiritual zeal; negligent in visiting the sick, and caring for the poor; or indiscreet in choosing parts of the word not meetest for the flock; flatterers and dissembling at public sins, and especially of great personages in their congregation, for flattery, or for fear;—that all such persons be censured, according to the degree of their faults; and continuing therein, be deprived. 6. That such as are slothful in the administration of the sacraments, and irreverent, or profaners, receiving the clean and the unclean, ignorants and senseless profane, and making no conscience of their profession in their calling and families;

omitting due trial, or using none, or light trial; having respect, in their trial, to persons wherein there is manifest corruption;—that all such be sharply rebuked; and if they continue therein, that they be deposed. 7. If any be found a seller of the sacraments, that he be deposed *simpliciter*; and such as collude with slanderous persons, in dispensing and overseeing them for money, incur the like punishment. 8. That every minister be charged to have a session established, of the meetest men in his congregation; and that discipline strike not only upon gross sins, as whoredom and bloodshed, but upon sins repugnant to the word of God, as blasphemy of God, banning, profaning of the Sabbath, disobedient to parents, idle and unruly ones without calling, drunkards, and suchlike debauched men, as make not conscience of their life, and the ruling of their families, and especially, of education of their children; lying, slandering, and backbiting, and breaking of promises; and this to be an universal order throughout the realm: And suchlike as are negligent herein, and continue therein after admonition, be deposed. 9. That none falling in public slanders be received in public fellowship with the kirk, except his minister have some appearance, and warrant in conscience, that he hath both a feeling of sin and apprehension of mercy; and for this effect, that ministers travail with him, by doctrine and private instruction, to bring him thereto; and especially in the doctrine of repentance, which being neglected, the public place of repentance is turned into a mocking. 10. Dilapidation of benefices, demitting of them for favour or money, that they become laick patronages, without advice of the kirk; and sicklike, interchanging of benefices by transaction, and transporting of themselves, by that occasion, without the knowledge of the kirk; precisely to be punished: Suchlike, that setting of tacks, without advice of the Assembly, be punished according to the acts; and that the demitters in favours for money, or otherwise, to the effect above written, be punished as the dilapidators.—Secondly, to prevent

*Corruptions in the persons and lives of ministers*, it is ordained, 1. That such as are light and wanton in their

behaviour; as, in gorgeous and light apparel; in speech, in using light and profane company, unlawful gaming, as dancing, carding, dicing, and suchlike, not beseeing the gravity of a pastor, be sharply and gravely rebuked by the presbytery, according to the degree thereof, and continuing therein after due admonition, that he be deprived, as slanderous to the gospel. 2. That ministers, being found swearers or banners, profaners of the Sabbath, drunkards, fighters, guilty of all these, or any of them, be deposed *simpliciter*: And suchlike, liars, detractors, flatterers, breakers of promise, brawlers and quarrellers, after admonition, continuing therein, incur the same punishment. 3. That ministers given to unlawful and incompetent trades and occupations, for filthy gain, as holding of hostleries, taking of ocker beside conscience and good laws, and bearing worldly offices in noblemen and gentlemen's houses, merchandise, and suchlike, buying of victual, and keeping it to the dearth; and all such worldly occupations, as may distract them from their charge, and may be slanderous to the pastoral calling; be admonished, and brought to the acknowledging of their sins;—and if they continue therein, to be deposed. 4. That ministers non-resident at their flocks, be deposed, according to the acts of the General Assembly, and laws of the realm; otherwise, that the burden be laid on the presbyteries, and they to be censured therefore. 5. That ministers await not on the court, and affairs thereof, without the advice and allowance of their presbyteries: *Item*, That they intent no action civil; without the said advice, except in small matters; and that for remedying of the necessity that some ministers have to enter in plea of law, that remedy be craved, that short process be devised, to be used in ministers' actions. 6. That ministers take special care, in using godly exercises in their families, in teaching their wives, children, and servants, in using ordinary prayers, and reading of scriptures, in removing of offensive persons out of their families; and suchlike other points of godly conversation and good example; and that they, at the visitation of the kirks, try the ministers' families in the points aforesaid; and such as are found negligent in these

points, after due admonition, shall be judged unmeet "to govern the house of God," according to the rule of the Apostle. 7. That ministers, in all companies, strive to be spiritual and profitable, and to talk of things pertaining to godliness; as namely, such as may strengthen them in Christ, instruct them in their calling; of the means how to have Christ's kingdom better established in their congregations, and to know how the gospel flourishes in their flocks; and suchlike others, the hindrances and remedies they find, &c., wherein there are manifold corruptions, both in ministers companying with themselves and with others; and that the contraveners thereof be tried, and sharply rebuked. 8. That no minister be found to countenance, procure, or assist a public offender, challenged by his own minister for his public offence; or to bear with him, although his minister were too severe upon him, under the pain of admonition, and rebuking. Lastly, that all acts made anent keeping of the Assemblies be observed.—*Act Sess. 23, 24, Dec. 17, 18, Art. 9.*

1641. That ministers and professors of divinity shall not, by their demission of, or cessation from, their charge, through age and inability, be put from enjoying their old maintenance and dignity.—*Act Sess. 5, July 30.*

1642. All are prohibited and discharged to pretend or use the names of ministers to any petition, declaration, or suchlike, at any time thereafter, without their knowledge, consent, or assistance; otherwise, to be proceeded against by the censures of the kirk.—*Act Sess. 11, Aug. 5.*

1646. A full acknowledgment and narration of the enormities and corruptions observed in the ministry; the first and main sin, reaching both to their personal carriage and callings, is judged to be, not studying how to keep communion and fellowship with God in Christ; and more particularly,

*Corruptions of ministers in their lives.* 1. Much fruitless conversing in company. 2. Great worldliness. 3. Slighting God's worship in their families. 4. Want of gravity in their own and in their wives' and children's carriage and apparel. 5. Tippling and bearing company in untimorous drinking. 6. Discountenancing and speak-

ing ill of the godly. 7. Not sanctifying the Sabbath after sermon. 8. Using small minced oaths. 9. Being great strangers to, and little conversant in the scriptures. Next,

*In their callings* ; As, 1. Corrupt entry into the ministry, and entering thereto, as to a way of living in the world, and not as to a spiritual calling. 2. Helping into, and holding in the church insufficient and suspected men ; and keeping the door straiter upon those whom God hath sealed, than upon those who have less evidence of the power of grace and holiness. 3. Partiality in favouring and speaking for the scandalous, whether ministers or others ; teaching them how to shift and delay censures. 4. Silence in the public cause. 5. Speaking ambiguously, and justifying the wicked cause ; complaining of the times upon the public account, and speaking against public orders. 6. Idleness in the duties of their ministry. 7. Want of zeal and love to the conversion of souls ; preaching *ex officio*, not *ex conscientia officii*. 8. Self-seeking in preaching. 9. Lifelessness in preaching, not applying the doctrine to the auditory and the times. 10. Indiscreet curing the imprudence of pious people and ministers. 11. Little care to furnish the armies, both at home and abroad, with ministers. 12. Neglect of secret wrestling in prayer, for a blessing on their labours.

These enormities are ordained to be tried and restrained ; and for that purpose, the subsequent remedies to be seriously followed and practised : And it is recommended, especially to presbyteries and provincial Assemblies, to make use of the same, in visitation of the kirks, and trial of presbyteries.

*Remedies of the corruptions of ministers.* 1. That presbyteries make great conscience in having all the vacant places within their several bounds, filled with godly and able men, wherever they are to be found ; and that, under the pretence of being an helper or second to another, none be taken in but such as are able for the same charge. 2. That brethren be more serious and faithful in their private trials in presbyteries, as they will be answerable to Christ, the chief shepherd ; and, in a way previous thereto, that brethren be free, in loving ad-

monition one of another, secretly, from time to time And that whosoever keeps not the presbytery and synod, after grave admonition, may come under further censures. 3. That accuracy be used at visitation of kirks; and that the elders, one by one (the rest being removed) be called in, and examined upon oath, upon the minister's behaviour in his calling and conversation. 4. That course be taken to divide congregations in parts; and by the help, not only of elders, in their several parts, but of neighbours also, the evils and neglects of persons and families may be found out, and remedied. 5. That every minister be humbled for his former failings, and make his peace with God; that the more effectually he may preach repentance, and may stand in the gap, to turn away the wrath of the Lord; running betwixt the porch and the altar, sighing and crying for all the abominations of the land. 6. That special care be had, that all ministers have their conversation in heaven, mainly minding the things of God; and exercising faith, for drawing life out of Jesus Christ, the fountain of life; arming themselves thereby, with power against the contagion and wickedness of the world. 7. That care be had of godly conference in presbyteries, even in the time of their refreshment; and the moderator is to look to it, that good matter be furnished thereto. 8. That every minister bring home the word of God to his own heart and conscience, by prayer and meditation, both before and after the public ordinance. 9. That use be made of the roll of the parish, not only for examination, but also for considering the several conditions and dispositions of the people, that accordingly they may be admonished, and particularly prayed for by the minister in secret. 10. That ministers have more communion among themselves for their mutual stirring up, the strengthening of their hands in the Lord's work, and rectifying of those who are not incorrigible. 11. That ministers in all sorts of company labour to be fruitful, as the salt of the earth, seasoning them they meet with, not only forbearing to drink healths (Satan's snare leading to excess), but reproving it in others. 12. That all ministers be careful to cherish the smoking flax of weak beginnings in the ways

of God, and courageously to oppose all mockers and revilers of the godly. 13. That ministers, with all diligence and faithfulness, improve their ministry to the utmost, be instant in season and out of season, and frugally employ their time in private, in the reading of, and meditating on the scriptures, that the word may dwell plentifully in them. 14. That providing the army with ministers be preferred to any congregation, and that those who are appointed to attend the same, and are deficient, be without delay severely censured, according to the Act Sess. 6, June 3, Ass. 1644. And that all ministers in public and private for the armies, that their lives being reformed, their hearts and hands may be strengthened, and their undertakings at last blessed of God with success. 15. That besides all other scandals, silence or ambiguous speaking in the public cause, much more detracted and disaffected speaking, be seasonably censured; and to this effect, that honest-hearted brethren do firmly unite themselves in the Lord, the younger honouring the elder, and the elder not despising the younger. 16. Both for corruptions of the ministry, and remedies thereof, brethren are referred to the fore-mentioned act of Assembly 1596, revived, as said is, by the above-mentioned Act 1638.—*Act Sess. 10, June 13.*

1648. That every minister by the word of wisdom, apply his doctrine faithfully against the public sins and corruptions of the times; and particularly, against the sins and scandals in that congregation where he lives, according to the Act of Assembly 1596, revived by Sess. 23, 24, Dec. 17, 18, Ass. 1638, Art. 9; and Act Sess. 10, June 13, Ass. 1646; with various other sins and evils, as recorded at large in *Act Sess. 26, Aug. 3.*

1690. That no ministers who have actual standing and absolute relation to any charge in the church of Scotland, remove out of the kingdom, without the consent of the respective judicatories of this church.—*Act 9.*

1690. All sentences passed against ministers *hinc inde* by any church judicatory, upon account of the late differences among presbyterians, from the year 1650 until the reintroduction of prelacy, are declared of themselves void and null, to all effects and intents; and it is recommended



to the respective presbyteries, to take care that such of these ministers as are not otherwise disposed of by the church, return to the exercise of their ministry in their respective congregations ; and to the civil magistrate, that the said ministers may have the legal maintenances and stipends, where they served.—*Act 13.*

1694. Recommended to all the presbyteries of this church, to proceed in all processes against ministers with all due circumspection and prudence, and that they consult their respective synods, or, in case of urgent necessity, the commission of the Assembly ; and it is required, that no judicatory of the church do take advantage, to censure any minister whatsoever for not having qualified himself in the terms of the act of parliament 1693.—*Act 12.*

*Note.*—This act was only to endure till April 1695, or the meeting of next Assembly, which of them first happened.—Form of Process, cap. 1, § 7, and cap. 7, p. 156, Vol. I.

1709. The several synods and presbyteries are appointed to send accounts from time to time, to the clerk of the Assembly, of all ministers who are, or shall be deposed or suspended, and probationers, who are, or shall be licensed by them ; and the clerk is ordered to lay the same before the Assembly or commission, at their first meeting, after it comes to hand, that due and proper methods may be used to make the same publicly known to all concerned.—*Act 15.*

1711. *The questions to be put to a minister at his ordination are,* 1. Do you believe the Scriptures of the Old and New Testament to be the word of God, and the only rule of faith and manners ?—2. Do you sincerely own and believe the whole doctrine contained in the confession of faith, approved by the general assemblies of this church, and ratified by law, in the year 1690, to be founded upon the word of God ; and do you acknowledge the same as the confession of your faith ; and will you firmly and constantly adhere thereto, and, to the utmost of your power, assert, maintain, and defend the same, and the purity of worship as presently practised in this national church, and asserted in Act 15, Ass. 1707 ?—3. Do you disown all Popish, Arian, Socinian, Arminian, Bourignian, and other doctrines, tenets, and opinions whatsoever, contrary to,

and inconsistent with the foresaid confession of faith?—

4. Are you persuaded that the presbyterian government and discipline of this church are founded upon the word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and never endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station, to maintain, support, and defend the said discipline and presbyterian government, by kirk-sessions, presbyteries, provincial synods, and general assemblies, during all the days of your life?—5. Do you promise to submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this presbytery, and to be subject to them, and all other presbyteries and superior judicatories of this church, where God in his providence shall cast your lot; and that according to your power, you shall maintain the unity and peace of this church against error and schism, notwithstanding of whatsoever trouble or persecution may arise; and that you shall follow no divisive courses from the present established doctrine, worship, discipline, and government of this church?—6. Are not zeal for the honour of God, love to Jesus Christ, and desire of saving souls, your great motives and chief inducements to enter into the function of the holy ministry, and not worldly designs and interest?—7. Have you used any undue methods, either by yourself or others, in procuring this call?—8. Do you engage, in the strength and grace of Jesus Christ, our Lord and Master, to rule well your own family, to live a holy and circumspect life, and faithfully, diligently, and cheerfully to discharge all the parts of the ministerial work, to the edification of the body of Christ?—9. Do you accept of and close with the call to be pastor of this parish, and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people?—*Act 10.*

1711. *Questions to be put to a minister, already ordained, at his admission to a parish.* You having already been ordained a minister of the gospel of Christ, it is supposed that the usual questions on such occasions

were then put to you ; and that you did then declare, &c. (here the questions put to ministers at their ordination, *ut supra*, are to be repeated ; and then say) And do you now consent and adhere to these declarations, promises, and engagements ; and accept of, and close with a call to be minister of this parish ; and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people ?

1745. Recommended and enjoined on presbyteries to take care that all ministers behave themselves as becomes their character.—*Act 9.*

1757. Earnestly recommended to presbyteries to take such wise and effectual measures as may promote the spirit of our holy religion, and preserve the purity and decorum of the ministerial character ; and that they take care that none of the ministers of this church attend the theatre.—*Act 5.*

1817. Enacted and ordained, That if a professor in an university be thereafter presented to a parochial charge, which is not situated in the city that is the seat of that university, or in the suburbs thereof, he shall, within nine months after his being admitted to the charge, resign his professorship, and at the extraordinary meeting of presbytery thereafter produce a certificate that his resignation has been accepted ; and that if the minister of a parish, which is not situated in the city that is the seat of an university, or the suburbs thereof, be thereafter presented or elected to a professorship in any university, he shall, at the first ordinary meeting of presbytery, which shall take place after the lapse of six months from the date of his induction into the professorship, resign into the hands of the presbytery his parochial charge : And in the event of this injunction not being complied with by the persons holding such offices, ordained that the presbytery of the bounds serve him, in his character of parish minister, with a libel for the breach of this statute, and to proceed therein according to the rules of the church ; provided that ministers of chapels of ease shall be subject, in all respects, to the provisions of this act, in the same manner as parochial ministers : Provided further, that the old and new

towns of Aberdeen be held as forming one city, so far as respects the provisions of this act.—*Act 6.*

## OATHS.

1641. The oath called *The Bond*, and bonds of the like nature, declared unlawful, and the subscribers not restricted by their oaths to the tenor thereof.—*Act Sess. 17, Aug. 9.*

1642. For eviting contrary oaths, synods, presbyteries, and sessions, are discharged to take the oaths of both parties in all time thereafter, in trying of adulteries, fornications, and other faults and scandals; but all other order and ways of trial used in such cases are recommended to them; and that there may be a common order and course kept in the kirk for trying public scandals, presbyteries are ordained to advise upon some common order there-until, and to report their judgments to the then next Assembly.—*Act Sess. 11, Aug. 5. Vide Form of Process, cap. 4, p. 149, Vol. I. of Compend.*

1712. The proceedings of the commission of Assembly 1711, respecting the oath of abjuration, and more especially the address and representation made to the queen in that matter, are approved, and judged to have been true, dutiful, faithful, and most seasonable; and the said address is, by order of the Assembly, inserted *verbatim* in the act; and the Assembly, in the words of the foresaid oath, solemnly declare and ascertain their allegiance to the queen, disown and disclaim the Pretender; and promise to maintain the protestant succession; and they do most seriously obtest all ministers and members of this church, whatever may be their different practice, to entertain a good understanding herein.—*Act 16.*

1712. The Assembly, in an address to the queen, suggest to her majesty, that a scruple remained with many, as if the conditions mentioned in the acts of parliament, establishing the succession to the crown, referred to in the oath of abjuration, were to be understood as a part thereof, which is judged inconsistent with their known princi-

ples; and therefore plead to be relieved in the terms of the treaty and articles of the union: They renew the declaration and assertion of their loyalty to her, and their concern for the protestant succession, which is expressed in the above act; and declare their willingness to affirm the points thereof, by their great oath, if thereto required: And therefore plead, that such as may remain unclear, as to the taking of the oath as it stands, may be favourably regarded by her majesty, as her most loyal and dutiful subjects; and that she would interpose for their relief.—*Act 17.*

1715. His majesty having immediately upon his accession to the crown, in pursuance of the Act 6, Parl. 1707, which is made a part of the acts of the parliaments of both kingdoms of Scotland and England, ratifying the treaty of union, in presence of his privy council, by his solemn oath, faithfully promised and sworn, according to the form used in the law of Scotland, that he shall inviolably maintain and preserve the settlement of the true protestant religion, with the government, worship, discipline, rights and privileges of the church of Scotland, as established by the laws made there, in prosecution of the claim of right, and particularly by the foresaid Act 6, Parl. 1707, and acts of ratification above mentioned, and subscribed the said oath in two several instruments made thereupon: The double of the said oath and instruments were, for the satisfaction and encouragement of the ministers, and other members of this church, openly read from the books of the late commission, where the same stands recorded, and are, by order of the Assembly, also recorded in *Act 4.*

### OFFICE-BEARERS IN THE CHURCH.

1638. That none be intruded into any office in the church, whether pastors, readers, &c., contrary to the will of the congregation to which they are appointed.—*Act Sess. 23, 24, Dec. 17, 18, Art. 20.*

1648. That every elder have certain bounds assigned

him, that he may visit the same every month at least, and report to the session what abuses are therein.—*Act Sess. 38, Aug. 10, Art. 2.*

1719. Recommended to all ministers to take care that deacons, as well as elders, be ordained in congregations where deacons are wanting: But declared, that deacons, as such, shall have no decisive voice, either in the calling of ministers, or in the exercise of church discipline.—*Act 7.*

1722. Kirk-sessions, presbyteries, and synods, are appointed strictly and impartially to observe this and all former Acts of Assembly, relative to the office-bearers in the church; and presbyteries are appointed at their privy censures to inquire into the behaviour of their members, and of all the deacons and elders in their bounds.—*Act 9.*

1727. Enjoined on presbyteries to have a strict regard to what is required with respect to the duties and qualifications of elders by the above Act 9, Ass. 1722: especially in choosing elders to represent them in General Assemblies, and attesting the commissions of such as are chosen either by themselves, by universities, or by royal burghs.—*Act 7.*

1737. Enjoined on presbyteries to be careful that all to be chosen elders of this church be qualified according to the Acts of Assembly; and particularly that they attest none as members of Assembly but such as are qualified, not only by subscribing the *formula* prescribed, but likewise according to all the other qualifications required by former Acts of Assembly.—*Act 8.*

1779. Enacted, 1. That no person be ordained an elder of this church before he is twenty-one years of age complete. 2. That all presbytery elders be elected within two months after the sitting of the synod of that bounds; and in case of death or demission, that a new election be made within one month of the same. 3. That every elder so chosen produce an extract of his election under the hand of the session-clerk, before he be received on the roll of either the presbytery or synod.—*Act 12.*

1816. Enacted and ordained, that no person be set apart to the office of an elder, unless he hath attained

the age of *twenty-one* years complete, and produce a certificate to that effect, to remain in *retentis*, and unless he is a communicant: That no person be ordained an elder who is not an inhabitant of the parish, liable to pay stipend and other parochial burdens, or who is not the apparent heir of an heritor of that description in the parish: That when any person who does not generally reside, but only occasionally, be proposed to the kirk-session to be ordained an elder, there shall be produced a certificate, under the hands of the minister and kirk-session of the parish where he generally resides, that he is of unblemished character, and regular in giving attendance on the public ordinances of religion. Enacted further, that if any elder be ordained in future, without being thus qualified, he shall not be held as entitled to any of the privileges of that office: But in any city or town where there are more congregations than one, that they shall be held as one parish, in as far as this act is concerned.—*Act 11.*

#### ORDERING OF THE ASSEMBLY-HOUSE.

1640. For order in the Assembly-house in all time time thereafter, it is appointed, 1. That the commissioners sit together unmixed, and that the places where they sit be railed about, or some other way divided from the seats of others, and that places be provided without the bounds of the commissioners' seats, to persons of respect, who are not commissioners, and others according to their qualities, as the magistrates of the town shall think most convenient. 2. Also, that the commissioners having received tickets from the magistrates of the burgh, at the delivery of their commissions, whereby they may have ready access to the Assembly-house, and place appointed for them, do keep the hour of meeting precisely; and whosoever comes after the time, or shall be found absent at the calling of the rolls, is to be censured, as the Assembly sees fitting; and that whatsoever presbytery, burgh, or university shall not send commissioners,

or commissioners sent from them do not come at all to the Assembly, be summoned to the next Assembly and censured, as the Assembly shall find reasonable. 3. That four persons of respect have warrant from the Assembly to enjoin, that there be no standing, nor din, nor disorderly behaviour; and if any shall disobey them, or direct his speech to any, except to the moderator, and that one at once, with leave first asked and given, that he be rebuked publicly by the moderator; and if he desist not, be removed out of the Assembly for that session. 4. That no motion come into the Assembly, but by the committee appointed for matters of that nature; and if the committee refuse to answer the same, that it be proposed to the Assembly, with the reasons thereof. 5. That the minutes of each session be read before the rising; and if the matter concern the whole kirk, that it be drawn up in form, and read in the beginning of the next ensuing session, that the Assembly may judge whether or not it be according to their mind.—*Act Sess. 2, July 29.*

1642. The foresaid Act of Assembly at Aberdeen 1640, for ordering the Assembly-house, is ordained to be kept thereafter punctually, and for that effect, the same is to be read the first session of every Assembly.—*Act Sess. 13, Aug. 6.*

Mr. John Law, ordered to continue moderator to Assembly 1694, till the Friday next after the sitting down of the General Assembly 1695, by Act 2 of that Assembly. The king's commissioner's speech, and that of the moderator, are printed amongst the Acts of the same Assembly 1695, in *Act 7.*

1718. All references, appeals, and complaints, that shall be made in time coming to the Assemblies of this church, are appointed to be lodged in the clerk's hands, on or before the second or third days of the Assembly's meetings, with certification, that all appeals and complaints not so lodged shall be held as deserted and fallen from, and shall not thereafter be received, unless, upon the first opportunity, the parties concerned make it appear to the Assembly that insuperable difficulties did withhold them from lodging the same, in manner above



set down; and the clerks of the several judicatories are enjoined to transmit to the clerk of the Assembly, within the time foreshaid, all references made by the respective judicatories to the General Assembly.—*Act 7.*

1789. Ordered, That before the roll begin to be called, the doors of the Assembly-house shall be shut, and shall not be opened until the judgment of the Assembly be declared.—*Act 6.*

1801. Enacted, 1. That the upper galleries of the Assembly-house be set apart for strangers. 2. That the under galleries be reserved for preachers and students in divinity, who shall be required to produce tickets, authorizing their admission, from the professors of divinity. 3. That one bench, contiguous to each of the under galleries, be separated from the middle part of the house by a proper rail, for the accommodation of those ministers who are not members of the Assembly. 4. That no person be admitted into the remaining part of the house except members of the Assembly, the magistrates of the city of Edinburgh for the time being, the Lord Commissioner's attendants, and parties with their counsel and agents. 5. That the members shall, when they deliver their commissions to the clerks of the Assembly, receive tickets, containing their respective names, from the clerks; and that the beadles be strictly enjoined to refuse them admittance into the house unless they produce their tickets, or, upon a motion for that purpose, be admitted by the authority of the Assembly. 6. That a beadle be appointed to superintend the other beadles, and be made responsible for their conduct.—*Act 3.*

1819. Enacted, That the papers, with all private causes, be placed upon the Assembly's table at their meeting on the first Saturday of the Assembly; that the first meeting of the committee of bills be held on the evening of the Thursday preceding; a second meeting of the same committee on the evening of Friday; and a third on the morning of Saturday before the meeting of the Assembly; and that all appeals, complaints, or references, not presented to the committee of bills at or before their meeting on the morning of the first Saturday of the Assembly,

be held as fallen from : This enactment is appointed to be read on the first day of the meeting of every Assembly, together with Act 7, Ass. 1718, and printed copies of it are directed to be sent to all the presbyteries of the church.—*Act 5.*

### ORDINATION OF MINISTERS.

1638. The book of consecration and admission is rejected and condemned, as establishing offices in God's house which are not warranted by the word of God, and are repugnant to the constitutions of our kirk, as an impediment to the entry of fit and worthy men to the ministry, and to the discharge of their duty after their entry, conform to the discipline of our kirk ; and the use and practice of the same is prohibited, and presbyteries are ordained to proceed with the censures of the kirk against all such as shall transgress.—*Act Sess. 14, Dec. 6.*

1645. The propositions concerning the officers, Assemblies, and government of the kirk, and concerning the ordination of ministers, being the results of the long and learned debates of the Assembly of divines at Westminster, and of the treaty of uniformity with the commissioners of this kirk residing at London, are agreed to and approved ; and the commissioners of the Assembly are authorized to agree to, and conclude in the name of the Assembly, an uniformity betwixt the kirks in both kingdoms, in the aforementioned particulars, so soon as the same shall be ratified, without any substantial alteration, by an ordinance of the parliament of England ; which ratification is to be timeously intimated and made known by the commissioners of this kirk residing at London : But it is provided, that that act be nowise prejudicial to the further discussion and examination of that article which holds forth, that the doctor or teacher hath power of the administration of the sacraments, as well as the pastor ; as also of the distinct rights and interests of presbyteries and people in the calling of ministers ; but that it shall be free to debate and discuss these points, as God

shall be pleased to give further light.—*Act Sess.* 16, *Feb.* 10.

1698. The Assembly unanimously declare, that as they allow no power in the people, but only in the pastors of the church, to appoint or ordain church officers; so they disclaim the error of the press in Acts vi, verse 3, if any such be found in bibles printed in this nation, bearing “whom *ye* may appoint over this business,” instead of “whom *we* may appoint,” and do declare they do not own any other reading of that text to be according to the original, but “whom *we* may appoint,” &c., nor do they know, nor can learn, that ever any in this nation did publicly use or apply that text to prove the people’s power in ordaining their ministers; which error the presbyterians (particularly those of Scotland) are wrongously charged with by Thomas Gibbs, rector of Bury, in a sermon preached by him, and printed and published.—*Act* 5.

1701. Enacted and declared, That any person who shall hereafter receive either license or ordination from any of the late prelates, or any others not allowed by the authority of the church, shall be incapable of ministerial communion for the space of three years *simpliciter*, and ever after that time, aye and while the presbytery to which he shall apply, be satisfied concerning his repentance.—*Act* 14.

1711. All young men educated in this church, or students of divinity, are discharged to go to foreign places, and there offer themselves to trials, for license to preach the gospel and ordination to the holy ministry, unless they carry along with them sufficient testimonials from the professors of divinity under whom they studied, if they have attended the profession of divinity, and from the minister of the parish, and presbytery of the bounds where they resided: And presbyteries are discharged to grant such testimonials, except upon due inquiry into the person’s life and conversation, soundness in the faith, proficiency in his studies, abilities, and fitness for the ministerial function: And the commission is appointed to acquaint ministers in foreign places, where young men or students, not certified as above, may be, with this act,

and advertise them what testimonials they ought to receive.—*Act 12.*

1754. Declared, That when one is ordained or admitted as minister of a parish, he shall, by virtue of such ordination or admission, be *ipso facto* a member of the presbytery and synod in whose bounds the parish lies : And all clerks of synods and presbyteries, are enjoined to enrol as members, such as have at any time preceding this act, been ordained or admitted as ministers of parishes within their respective bounds.—*Act 5.*

1779. Enacted, and all persons educated or residing within the bounds of this church, are prohibited from going out of its bounds to obtain licenses to preach ; and all preachers licensed by this church, are prohibited from going without its bounds to obtain ordination, unless they are called to a particular congregation in another country : And it is enacted, That licenses obtained in that manner shall not be received, or have any effect in this church ; and such preachers as contravene this act, shall forfeit the license formerly given them, and be no longer entitled to the privileges which belong to a preacher of the gospel of this church.—*Act 9.*

1784. Declared, that both the minister of the parish and his ordained assistant and successor, ought to be constituent members of the kirk-session ; that in the presbytery and synod, either of them who is present may deliberate and vote ; that if both are present, these privileges belong to the minister of the parish only ; and that either of them is capable of being elected a member of Assembly, but not both of them in one year.—*Int. Act and Overt.*

1786. Recommended to presbyteries to be cautious in granting ordination to such persons as have neither a fixed charge nor a reasonable prospect of such provision as may enable them to support the ministerial character ; and that no presbytery grant ordination to any person who has a near prospect of removing from the bounds of that presbytery into another, from whom he may, in due time, receive ordination, if it shall by them be found necessary and proper.—*Int. Act and Overt.*

1799. Enacted and declared, That it is agreeable to the constitution, the laws, and the decisions of this church, that no probationer, who has obtained a license without the bounds of this church, or who has not obtained a license from some presbytery of this church, and no ordained person, who did not obtain his license from a presbytery of this church, or who, either by going without the bounds of the church to obtain ordination, although he was not called to a particular congregation in another country, or by any other part of his conduct, has forfeited the license which he had obtained, shall be held qualified to accept of a presentation or a call to any parish in this church, or to any chapel of ease connected therewith : And it is enjoined on all the presbyteries of this church, that if a presentation or a call to any such probationer, or ordained person as described in this act, shall, at any time, be given in to them, instantly to pronounce a sentence, refusing to sustain such presentation or call, and declaring it null and void. And all the ministers of this church, and chapels of ease connected therewith, are prohibited and discharged, under pain of such censures as the judicatories of this church may see cause to inflict, from employing to preach upon any occasion, or to dispense any of the ordinances of the gospel, within any congregation under the jurisdiction of this church, persons who are not qualified, according to the laws of this church, to accept of a presentation, and from holding ministerial communion in any other manner with such persons. And presbyteries are enjoined to attend to any transgression of this prohibition which may occur within their bounds, and to summon the minister who is reported guilty of such transgression to answer for his conduct. This act to be transmitted to every presbytery to be engrossed in their respective records.—*Act 5.*

### OVERTURES.

1697. Enacted, That before a General Assembly of this church pass any acts which are to be binding rules

and constitutions to the church, the same acts be first proposed as overtures to the Assembly ; and being by them passed as such, be remitted to the consideration of the several presbyteries of this church, and their opinions and consent reported by their commissioners to the next Assembly following, who may then pass the same into acts, if the more general opinion of the church, thus had, agree thereto.—*Act 9.*

1706. Recommended to all presbyteries within this church, in their instructions to their commissioners, carefully to distinguish betwixt what they propose as overtures, to be transmitted by the General Assembly to the several presbyteries, in order to their being passed into acts ; and those things which are only matter of complaint or grievance, to be presently redressed, or things wherein they desire to be advised, that overtures and matters of advice may be given in to the committee for overtures, and the rest to the committee for bills, references, and appeals ; and yet, in matters of weight, these two committees may advise with one another.—*Act 6.*

1718. Acts 17, Ass. 1707, and 16, Ass. 1710, are revived ; and presbyteries, which have not sent up their remarks upon the larger overtures for discipline, are again appointed to transmit the same to the clerk of the commission : And recommended to presbyteries to send up to the next General Assembly such members as might be most in case to help forward this work.—*Act 10.*

1758. It is enacted, That when any overture hath been twice transmitted, the General Assembly shall, without further transmission, take such overtures into consideration, and pass into acts, or reject the same, as they shall see cause, although presbyteries have not sent up their opinions.—*Act 7, Ass. 1752.* Re-enacted, *Act 5.*

1770. It is ordained, That no business or overture shall be brought into the Assembly the same day on which it is moved in the committee for overtures ; and that after an overture being transmitted or moved in the Assembly, it shall lie on the table for one diet.—*Act 8.*

## PAPISTS.

1638. An overture for taking the number and names of all papists in the kingdom, that it might appear what growth popery hath had, and has, and what popish priests and jesuits there are in the land ; and that all persons, of whatsoever state or condition, be obliged to swear and subscribe the confession of faith, as then condescended on by the General Assembly, and that they frequent the word and sacraments in the ordinary diets and places, otherwise to be proceeded against with the censures of the kirk ; and that children<sup>r</sup> be not sent out of the country without license of the presbyteries or provincial synods of the bounds where they dwell ; is referred to the several presbyteries, by *Sess. 23, 24, Dec. 17, 18, Art. 11.*

Enacted, that since the office of diocesan or lordly bishop is utterly abjured and removed out of this kirk, it is thought fit that all titles of dignity savouring more of popery than christian liberty, as chapters with their elections and consecrations, abbots, priors, deans, archdeacons, preaching deacons, chanters, sub-chanters, and others having the like title flowing from the pope, and canon law only, as testifieth the record book of discipline, be also banished out of this reformed kirk, and never be usurped or used hereafter, under ecclesiastical censure.—*Act Sess. 23, 24, Dec. 17, 18, Art. 19.*

1639. All former acts of Assemblies against papists and excommunicated persons, against haunTERS with them, and receivers of them, are revived and renewed.—*Act Sess. 22, Aug. 29, Art. 6.*

1642. It is appointed, 1. That the Assembly supplicate the council for the due execution of the acts of parliament and council against papists : and craving that the exchequer might be the intromitters with the rents of those who are excommunicated, and that from the exchequer the presbytery may receive the portion of the confiscated goods, which the law appoints to be employed *ad pios usus*. 2. That every presbytery convene all known papists in their bounds, and require them to put out of

their company all friends and servants who are popish, within a month; also within the same space to give their children, sons and daughters, who are above seven years old, to be educated at their charges, by such of their protestant friends as the presbytery shall approve, and find caution for bringing home, within three months, such of their children as are without the kingdom, to be educated in schools and colleges at the presbytery's sight; to find caution likewise of their abstinence from mass, and the company of all jesuits and priests. 3. That all, of whatsoever rank and degree, that refuse to give satisfaction in every one of the foresaid articles, be processed without any delay; but that those who give satisfaction, be dealt with all meekness after this manner: The presbytery shall appoint such of their number as they shall find fittest to confer with them, as frequently as the brethren are able to attend, until the middle of October then next; against which time, if they be not willing to go to church, that they give assurance to go and dwell in the adjacent university town, from the first of November till the last of March, where they shall attend all the diets of conference, which the professors and ministers of the bounds shall appoint to them; by which, if they be not converted, their obstinacy to be declared in the provincial synods of April; and from thence that process shall go on to the very closure, without any further delay. 4. That every presbytery, as they will be answerable to the next Assembly, be careful to do their duty in the premises. 5. That there be given by the members of that Assembly, unto the commissioners of the presbytery of Edinburgh, a list of all excommunicated papists they know, and of all papists who have children educated abroad, that they may be presented, together with a supplication from the Assembly, to the council at their next sitting. 6. That the council be supplicated for an act, that in no regiment which goes out of the kingdom, any papist bear office; and that the colonel be required to find caution for this effect, before he receive the council's warrant for levying any soldiers; and that he find caution for the maintaining of a minister, and the keeping of a session in his regiment. 7. That every



presbytery proceed against non-communicants, whether papists or others, according to the act of parliament made thereanent : And sicklike, that acts of parliament made against profaners of the Sabbath, be put in execution. The presbyteries are ordained to put the foresaid acts in execution with all diligence ; and that the commissioners of every presbytery give in a list of the excommunicated papists within their bounds, and of papists' children out of the country, to the clerk, that the same might be presented to the council by the commissioners of that Assembly.—*Act Sess. 7, Aug. 3, Overt. against papists.*

1646. That parents or friends of children or minors, shall, before they send them without the kingdom to be bred, first acquaint the presbytery where they reside, that they may have their testimonial, dictated to the presbytery, or class within the kingdoms of France, England or Ireland ; and at the time of these children's return from any of the said kingdoms, that they report a testimonial from the presbytery or synod where they lived without the kingdom, of their breeding there, and shew the same to that presbytery within the kingdom, who gave them a testimonial at their going away : and all presbyteries are ordained to try if any children have been sent to popish schools or colleges without the kingdom ; and if any be found, that their names be given to the presbytery or commissioners of the Assembly, that the same may be presented to the Lords of Secret Council, or committee of estates, that their Lordships may be humbly desired by their authority, to recall them ; that, after returning to this kingdom, a cause may be taken according to the former ordinances of General Assemblies, for their breeding in the true religion.—*Act Sess. ult. June 18.*

1648. That all presbyteries of this kingdom observe and practise the rules and directions made in former General Assemblies, for preventing the growth of popery ; namely, the foresaid overtures against papists, non-communicants, and profaners of the Sabbath, approved in Ass. 1642 ; and the act anent children sent without the kingdom, made in the General Assembly 1646 : And that they use all diligence for putting in execution the acts of

parliament and secret council, made against papists and excommunicated persons; and that they register their diligences thereanent in the presbytery books; which are summarily to be recorded in the synod books, from time to time, that the General Assembly may see how these laudable acts are put in execution; which are set down in this act, with some necessary additions in one view: 1. That every presbytery give in a list of all excommunicated papists they know to be within their bounds, to the commissioners of the General Assembly, and of all papists; yea, of them also who profess to have renounced popery, but yet have their children educated abroad, with the names of these children that are abroad, according to the foresaid 5th overture of Ass. 1642. 2. That every presbytery convene, at their first meeting, all known papists within their bounds, and such as, having professed to renounce popery, have their children abroad; and cause them to find sufficient caution for bringing home, within three months, such of their children as are without the kingdom, to be educated in schools and colleges, at the presbytery's sight, if they be minors; and to be wrought upon by gracious conference, and other means of instruction, to be reclaimed from popery, if they be come to perfect age. 3. That parents, tutors, and friends of children and minors, before they send them without the kingdom, first acquaint the presbytery where they reside, that they may have their testimonial directed to the presbytery or class within the kingdom or dominion beyond seas, whither they intend to send their children; and at the time of these children's return, that they report a testimonial from the presbytery or synod where they lived without the kingdom, to the presbytery who gave them a testimonial at their going away; according to the act anent children sent without the kingdom, anno 1646. 4. That all presbyteries give the names of such pedagogues as were abroad with the children of noblemen, within their bounds; and diligently inquire, whether these pedagogues do either become corrupt in religion, or (continuing constant) are removed from their charge, and by whom they are removed; and that they signify these things to the General Assem-

bly from time to time, or their commission, that they may represent the same to the high court of parliament, lords of secret council, or committee of estates, for such remedy as shall seem expedient to their honours, for preventing of, and purging the land from the plague of idolatry. 5. That such parents, tutors, or friends, as either send away their children to foreign parts infected with idolatry, without such testimonials as aforesaid, or do not recall them that are already abroad, within such time as is already prefixed, or do remove from them their protestant pedagogues (that they may be the more easily infected with popery), be processed; and in case of not amending these things, be excommunicated. 6. That the names of such as are excommunicated for these or any other causes, be sent in to the General Assembly from year to year; that from thence their names may be notified in all the kingdom, and that the acts of parliament and secret council may be put in execution against them, and all diligence used for that effect; and that by the effectual dealing of the General Assembly with the parliament, lords of secret council, and committee of estates, their lordships may enact such further just and severe civil punishments on such excommunicants, for terror to others, as shall be found necessary for purging this covenanted land from all abominations. 7. That all known papists, or persons suspected of popery upon probable grounds, find caution before the presbyteries for their abstinence from mass, and from the company of all jesuits and priests, according to the foresaid 2d overture against papists, anno 1642: Also, That presbyteries press them to find such caution; and observe what persons put their sons or daughters to such families as are tainted with popery within the land, the same being a special mean to corrupt them with idolatry; and cause such parents to recall their children, or else proceed with the censures of the kirk against them. All which overtures, presbyteries are seriously required to observe, with certification.—*Act Sess. 38, Aug. 10.*

1690. That presbyteries take special notice what papists are in their bounds, and that they take pains to reclaim them, and advert how their children are educated;

and, if need be, make application to the civil authority concerning them.—*Act 7, Sess 12, Oct. 29, § 2.*

1695. Recommended to all provincial synods, presbyteries, and kirk-sessions within this national church, to take particular notice of trafficking priests: And appointed, that lists be taken up of their names, and given to the privy council, with an address for executing the laws against them. And recommended to presbyteries, to advert to the education of young noblemen, gentlemen, and others, children of popish parents, and to put the above *Act 7, Ass. 1690, thereanent, in execution.—Act 9.*

1699. The overtures transmitted by *Act 16, Ass. 1698*, approved as follows: 1. That ministers study the popish controversies more. 2. That all due endeavours be used to unite protestants among themselves, seeing adversaries get advantage by their divisions. 3. That ministers endeavour faithfully to watch the flock committed to them, and by public preaching, and private instruction and conference, to prevent apostacy that way. 4. That ministers deal wisely and convincingly with the consciences of those that have fallen into popery, and other corrupt principles, for their recovery. 5. That when other means are ineffectual, presbyteries proceed to church censures, when they see it may be for the edification of the church. 6. That, according to the acts of former General Assemblies and acts of parliament, the names of popish priests and jesuits, and trafficking papists, and of those who have sent their children to popish colleges and countries, be given in to each provincial synod, and by them transmitted, as *Act 6, Parl. 3, Cha. 2, requires.* 7. That application be made to the civil magistrate, as often as need requires, for the vigorous execution of the laws against papists; particularly seminary priests, popish schoolmasters and mistresses, governors and pedagogues, and popish meetings; and for seeing to the training up of popish youths in the protestant religion.—*Act 8.*

1700. The Assembly judge, That a private acknowledgment of papists renouncing that religion verbally, is not sufficient to admit them to church privileges; and therefore appoint, that the reception of any that

come off from popery to the communion of this church be the deed of a church judicatory; and that they subscribe the confession of faith, as the confession of their faith.—*Act 18.*

1703. Act declaring, That by judicatories, in the fore-said Act 18, Ass. 1700, is not meant any below a presbytery.—*Act 10.*

1704. It is appointed, That presbyteries send lists to the clerks of privy council, conform to the acts of parliament, and proclamation of council thereanent, of all papists within their bounds; and that these lists be particular as to the names and designations of the persons who entertain them, and contain the places where they are entertained, and where they preach, and hear, and say mass; and that they be particular as to the evidences, by giving the names and designations of the witnesses: And the commission is appointed to apply to the government, to provide for the security of ministers who come to deal with papists, in order to bring them off their errors, that they may be protected from violence and injuries that are offered to their persons, by the said papists, and their friends.—*Act 21.*

1704. Recommended to ministers to be at pains to dehort people from marrying with papists, and hold forth the dangerous effects thereof: And the commission is instructed to apply to the parliament for an act discharging such unequal marriages: And it is recommended to presbyteries to think upon some overtures that may tend to prevent such marriages.—*Act 22.*

1707. Recommended to ministers and congregations in parishes where popery abounds, to be frequent and serious in fasting and praying to God, for restraining thereof. Act 8, Ass. 1699, is renewed: And it is further recommended, 1. That diligence be used to plant vacant congregations in these parts that are infected with popery, with able, pious, prudent, and learned ministers. 2. That ministers frequently commune with, and inquire at their elders, of the case of the people, and of the danger they may be in, and of the trafficking of seducers amongst them, that they may the more timeously counter-

work them ; and that sessions report their diligence therein to their presbyteries. 3. That presbyteries, at each meeting, confer about their danger from popery, and their duty with respect to it, and what endeavours may be used against it ; and record their success : Or, if the infection be growing. 4. That synods in every meeting inquire at presbyteries, as to the growth of popery, and give assistance against it : And, for that end, 5. Send ministers well acquainted with popish controversy, to assist ministers in the bounds where popery prevails, not only to confer with the seduced, but for establishing others, especially persons of more influence and authority. 6. That probationers be sent to assist ministers of large parishes in preaching, that they may have the more time to travel amongst the people : But presbyteries are to take care that this be not improven for ease and sloth. 7. For making this about probationers practicable and useful, some overtures of the commission 1706, are approved : And, in prosecution thereof, it is ordained, that some probationers, known in popish controversy, be sent to those parts where popery abounds, to travel among the people, under the inspection, and at the direction of the presbyteries of the bounds, and shew them the errors of the church of Rome, and dangers of the same ; and to instruct them in the principles of the true reformed protestant religion, especially in spacious parishes ; and that a contribution be made amongst ministers, according to their stipends, and amongst charitable people, for their encouragement. It is recommended to presbyteries to be more careful in transmitting lists of papists to the clerks of privy council, with particular informations ; and to all church judicatories to apply to the civil magistrate for executing the laws against papists : And where the concurrence and assistance of supreme judicatures is requisite, the commissions of Assemblies are enjoined to name committees to prosecute the same according to law, and to manage the said missions and contributions ; and certain rules are laid down for ingathering and applying the foresaid contributions, and directing the missionaries in their work ; and directions are given to ministers and presby-

teries with respect thereto : And it is appointed, that at every synod, the names of papists in the several parishes within their bounds be given in to the clerk of the synod, that their increase and decrease may be known, and suitable provision made for recovering the seduced, and preventing the seduction of more ; and that synods transmit these lists yearly to the commissions of Assemblies ; and the commissions are enjoined to see to the execution of the above particulars, and to apply to the government for protection and assistance to the missionaries.—*Act 8.*

1708. It is recommended to ministers, that in their sermons, and catechisings of the people under their charge, they use all care and diligence in informing them of the abominable errors of the church of Rome, and instructing them in the truths of the reformed religion, and faithfully warning them of their danger from popery.—*Act 4.*

1714. Ministers and members of kirk-sessions are enjoined to keep a watchful eye over papists, and to deal with them for their conviction, according to *Act 8, Ass. 1707*, and to give yearly in to the presbytery, lists of their names and designations ; particularly of popish bishops, priests, jesuits, and other traffickers, and of apostates from the true religion ; with an account of their popish meetings, times and places thereof, and witnesses for proving the same ; with the names of children under popish parents, tutors, curators, and governors, and of the nearest protestant relations of such children ; and likewise, of all papists who keep schools, or teach any science, art, or exercise ; and also, of protestants who keep popish servants ; and of all papists who have succeeded to lands or heritages within their bounds, since the year 1700 ; and all other contraveners of the 3d act of parliament held that year : And presbyteries are strictly enjoined to give in yearly, on or before the twenty-first day of February, full information of these things, subscribed by their moderators and clerks, to the justices of the peace, in the several shires within which the said presbyteries lie, and papists reside or haunt, at their quarter sessions or meetings ; and to other judges ordinary, within the bounds of the said presbyteries, in order to due trial ; and to send

another authentic copy of the said informations, subscribed as said is, to the procurator or agents for the kirk, to be by them laid before the lords justice-general, or justice-clerk; or her majesty's advocate, or solicitors; and to give in also copies thereof to their synods, according to former acts of Assembly: And synods are ordained to call for the same from presbyteries, and record their diligence therein in their books, that the General Assembly may see it, and give such orders thereanent as they shall judge proper.—*Act 11.*

1717. The commission is instructed to apply to the lord justice-clerk, lord advocate, or solicitor, in order to obtain a vigorous execution of the laws against popery; and informations respecting popish schoolmasters or mistresses, and popish factors and chamberlains, according to the direction of the above Act 11, Ass. 1714, are appointed to be sent to the procurator and agents for the church, that they may be prosecuted according to law.—*Act 8.*

1719. All presbyteries, and particular ministers and kirk-sessions, are exhorted to have a watchful eye on the papists within their bounds, and to take up lists of their names, and send the same to the commission of the Assembly to be laid before his majesty's advocate, or otherwise used as they shall see cause; and that they be at all pains to reclaim papists, and observe what is enjoined for that end by Act 8, Ass. 1707: And presbyteries, in whose bounds there are papists, are enjoined to give in informations against them, according to Act 11, Ass. 1714; and to hold visitations in parishes where popery abounds, and to inquire into the circumstances thereof, the number of catechisable persons therein, how many of them are protestants, and how many papists, and who of them are apostates; as also, what is the length and breadth of such parishes, and what the real rent, and also the valued rent of each heritor extends to; that so it may be known where new erections are practicable, and how much each parish may afford toward the maintenance of schools, conform to law: And it is appointed, that at these visitations the churches and manses be also inspected by tradesmen, in a legal manner; and that where ministers want glebes,



grass, or other accommodations, the course prescribed by law be followed; and that an extract of what is done in the premises be sent to the procurator and agents for the church, that diligence may be taken out thereon, according to law: And where schools are wanting in any parish, presbyteries are appointed to make legal intimation to heritors and parishioners, to meet on a certain day, and at a certain place, to stent themselves for a salary to a schoolmaster, and for the needful accommodations to him, as is appointed by act of parliament 1633, 5, and 1696, 26; and that they appoint a committee to meet with them; and if the heritors and parishioners, and failing the heritors, the greatest part of the parishioners meet, that they proceed to stent, and also to proportion the money laid on: And if they either meet not, or, being met, fail in settling a salary, and providing a house for the schoolmaster, the presbytery is appointed to present a petition to the commissioners of supply, or any five or more of them, with an extract of the valued rent of the parish, and crave that the commissioners may, in the terms of the foresaid acts of parliament, settle a school: And if the commissioners refuse, or shift the doing of it, that instruments be taken against them, and thereupon a process be commenced before the Lords of Session, who have already, in like cases, provided salaries and houses for schoolmasters: And if, when all this is done, the heritors will not call a schoolmaster, the presbytery is required, after the expiring of one year, to order intimation to be made from the pulpit to the heritors and parishioners, to meet on a certain day, in order to elect and present one to be schoolmaster: And if at that time they do it not, the presbytery is appointed to present one; and after edicts duly published as to him, to admit and settle him: And that where competent stipends are not provided in parishes where popery abounds, or where the stipends are paid in small parcels, the presbytery concerned is appointed to cause draw up a state of these stipends, how, and by whom they are paid; and also an account of the real rent of each heritor in such parishes, and send the same to the procurator and agents for the church, who, upon receipt

thereof, are ordered to commence processes for settling competent stipends to ministers, where the same is not already done; and the expenses of processes for settling stipends and schools in parishes where popery abounds, are appointed to be borne out of the church's public money.—*Act 4.*

1720. The commission of Assembly is instructed and empowered to do what in them lies to prevent the growth of popery, by directing and assisting ministers in those bounds where popery prevails, in applying all proper ecclesiastic remedies, particularly these prescribed in the above Act 4, Ass. 1719, and former acts: And all the ministers of this church, especially in such corners where there are papists, are appointed to preach against the errors of popery, and deal seriously with papists for their conviction; and the commission is empowered to use all suitable endeavours to get the civil remedies, now under consideration, brought to some good issue, and to think upon means to get proper books against popery put into the hands of the people in those places where popery prevails, or people are in danger of being perverted; and the draught of a memorial against popery is approved, and ordered to be sent to the secretary of state, to be laid before his majesty.—*Act 7.*

1747. It is appointed, That presbyteries take an account of the number of papists within their respective bounds, and of popish priests who haunt among them, and where they hold their meetings; and that they lay the same before the commission in November next, or as soon as they can.—*Act 5.*

1779. The General Assembly express their gratitude to Providence for the privileges enjoyed by this church, and the security afforded to the protestant religion by established laws: They declare their attachment to civil and religious liberty, and their desire that liberty of conscience be extended to protestants of all denominations: But they declare their persuasion, that a repeal of the penal laws now against popery would be inexpedient, dangerous, and prejudicial to the best interests of religion and civil society in this part of the united kingdom:

They, therefore, express their satisfaction in being assured that the bill for repealing the laws against the growth of popery in Scotland is laid aside ; and confide in the wisdom of the legislature that it will not in future be resumed : They express their strong disapprobation of those lawless mobs which have disgraced the cause they meant to serve ; and recommend to the people under their care to shew the influence of their religion by a quiet and charitable spirit, approving themselves worthy of their civil and religious liberties by a peaceable and moderate behaviour.—*Act 7.*

### PARISHES.

1638. That every minister be obliged to reside in his own parish at his ordinary manse, for the better attending of the duties of his calling, conform to the acts of Assemblies, at Edinburgh, 1563, 1565, 1572, 1595. This is part of *Act Sess. 23, 24, Dec. 17, 18, § 5.*

Referred to the several presbyteries, to consider what is fit to be done, to get some proportion kept in the several parishes within their bounds, both as to number and distance of place.—*Act Sess. 23, 24, Dec. 17, 18, Art. 8.*

That the principal parishes and places of the realm be provided with men of most worthy gifts, wisdom, and experience.—*Act Ass. 1596, ratified by Act Sess. 23, 24, Dec. 17, 18, Art. 9.*

That people be obliged to frequent ordinances in the ordinary diets and parishes, is referred as an overture by *Act Sess. 23, 24, Dec. 17, 18, Art. 11.*

That in presenting either pastors, readers, or school-masters to particular parishes, there be a respect had to the congregation ; and that no person be intruded into any office of the kirk, contrary to the will of the congregation to which they are appointed.—*Act Sess. 23, 24, Dec. 17, 18, Art. 20.*

1648. Recommended to the honourable commission for plantation of kirks, to provide real and valid security of

competent honest means to ministers in burghs, where they are not sufficiently provided or secured already; and presbyteries are ordained to use all necessary diligence for the prosecuting thereof before the said commission.—*Act Sess. 40, Aug. 11.*

1701. Presbyteries are appointed to send in to the commission an account of such ministers and preachers as intrude into parishes, that application may be made to the government, for removing them according to law.—*Act 18.*

### PARLIAMENT.

1643. Propositions are given by the commissioners of the parliament of England to a committee, to be presented by them to the General Assembly, giving an account of the progress made by them towards a reformation, and craving the help of their prayers, and what other aid and assistance they shall think meet. A declaration of both houses of the parliament of England to the General Assembly of Scotland, shewing that they had called an assembly of divines, which was then sitting at Westminster, and that they had sent commissioners from the parliament, with the assistance of some divines of that Assembly, both therein named, to treat with the Assembly of Scotland, anent public matters relating to the peace and commonweal of both kingdoms, the furthering the work of reformation in England, and a nearer conjunction betwixt both churches, and entreating that these commissioners might be received with favour and credit in what they proposed: And also, That the Assembly of Scotland, according to their promise and resolution, send some godly and learned divines to the Assembly in England, for furthering that work; and that the Assembly do what they can to procure aid to the parliament against the army of the popish and prelatical party then on foot.—*Sess. 8, Aug. 10.*

Propositions from both houses of the parliament of England to the General Assembly, together with the

double of a paper presented by the said commissioners to the convention of the estates of Scotland, entreating their assistance for carrying on the work of reformation; that the two kingdoms may be united into a strict league for effectuating thereof, and that the kingdom of Scotland might send forces to England to assist the parliament against the army of the papists, prelatists, and malignants, then on foot.—*Sess. 12, Aug. 15.*

Answers of the General Assembly 1643, to the above written declaration of the parliament of England, blessing God for the progress that that parliament had made in the reformation of religion; shewing that they had sent commissioners to propound, treat, and conclude with the Assembly of divines now sitting at Westminster, and any committees to be deputed by both houses of parliament, in all such things as may conduce to the utter extirpation of popery, prelacy, heresy, schism, superstition, and idolatry, and for settling the so much desired union of the whole island in one form of church government, one confession of faith, one common catechism, and one directory for the worship of God; and shewing their desire to be united and associated with England in a nearer league and solemn covenant, for maintaining the true reformed religion, and unity and uniformity therein, betwixt the kirks of this island, and that they had approven a draught and form of that covenant, expecting the like approbation of the parliament and Assembly of England, that thereafter it may be solemnly sworn to and subscribed in both kingdoms; and promising not be negligent in exhorting all others to their duty, or in concurring, so far as belongs to their place and vocation, with the estates then convened in any lawful and possible course, which may most conduce to the good of religion and reformation, the king's honour and happiness, and the deliverance of their brethren in England from their present calamitous condition.—*Sess. ult. Aug. 19.*

1644. Presbyteries and ministers *respective* are ordained to be diligent, by all means, in procuring the full exact execution of all acts of parliament made against non-communicants, and excommunicated persons, and other

acts containing pecunial pains for restraining vice, and advancing piety, and for uplifting the said penalties contained in the same, and for the faithful employment thereof upon pious uses; and presbyteries are to report their diligence therein yearly to the General Assembly,—*Act Sess. 7, June 4.*

1646. Such as have been instruments of publishing the Marquis of Montrose's proclamation for editing a pretended parliament, or any such proclamation and declaration, are declared to deserve the highest censures of the kirk, unless they make humble confession of their offence publicly, in such manner as is prescribed by that Assembly; and recommended to the committee of estates, to take some course for their exemplary civil punishment; and that some public note of ignominy be put upon that proclamation.—*Sess. 14, June 17.*

1647. Recommended and ordained, that presbyteries diligently endeavour, that act of parliament 1645, 9, concerning the uplifting of pecunial pains to be employed upon pious uses, be put in due execution within their several bounds: As also, that the acts of parliament against excommunicated persons, especially act of parliament 1647, 20, be also carefully executed, and that they cause use all diligence to that effect, and that account thereof be required in provincial and General Assemblies.—*Act Sess. 25, Aug. 28.*

1742. Appointed, That the act of parliament against murdering children be read from the pulpits of each parish in this church, at least twice every year, and that presbyteries, at their privy censures, make inquiry if the same be done; and further appointed, that the several ministers of the church cause the said to be engrossed in their session records, that it may be always at hand, and not lost.—*Act 4.*

## PLACES CIVIL.

1638. Declared, That as on the one part, the kirk, and ministers thereof, are obliged to give their advice and good

counsel in matters concerning the kirk, or the conscience of any whatsoever, to his majesty, to the parliament, to the council, or to any member thereof for their resolutions from the word of God; so on the other part, that it is both inexpedient and unlawful in this kirk, for pastors, separated unto the gospel, to hold civil places and offices, as to be justices of peace, sit and determine in council, session, or exchequer, to side or vote in parliament, to be judges or assessors in any civil judicatory; and all contrary acts of Assembly are rescinded and annulled, and namely, the act of Assembly 1600, which being pressed by authority, did rather for an *interim* tolerate the same, limited by many cautions, than in freedom of judgment allow thereof, and presbyteries are ordained to proceed with the censures of the church, against such as should transgress therein in time coming.—*Act Sess. 25, Dec. 19.*

### PRAYER.

1690. A diet set apart for prayer.—*Act 4.*

1694. Another.—*Act 2.*

1695. Another diet for prayer.—*Act 4.*

Another diet set apart for prayer, *Act 5*, and observed *Act 6*, of the same Ass.

1711. Recommended unanimously to all the ministers of this church, That, in their public prayers, after praying for her majesty Queen Anne, they expressly mention the Princess Sophia, Electress and Duchess Dowager of Hanover, and the protestant line in that family upon whom the succession of the crown of these dominions is by law established; or that they pray in such terms as their congregation may understand that they mean the Princess Sophia and the heirs of her body, being protestants.—*Act 4.*

1736. Enjoined on all the ministers of this church, That they pray for her royal highness the Princess of Wales, as well as for the king and royal family.—*Act 5.*

1795. Enjoined on ministers, That they pray for her royal highness the Princess of Wales, as well as for his majesty King George, his royal consort the Queen, his

royal highness the Prince of Wales, and all the royal family ; and that her royal highness the Princess of Wales be named immediately after the prince.—*Act 6.*

### PREACHING.

1646. All persons discharged to preach in public, under the name and notion of an expectant, or under any other pretence whatever, except such as shall be tried and found qualified according to the acts of the General Assembly ; and recommended to presbyteries and provincial synods to take special notice thereof, and to censure the transgressors accordingly.—*Act Sess. 14, June 17.*

1695. Recommended to the care of ministers, that besides their ordinary work of catechising, they also preach catechetical doctrine, at such times, and in such manner, as they shall find most conducive to the edification of their flocks.—*Act 18.*

1720. Recommended to the several ministers of this church, punctually to observe the acts of former General Assemblies, for preaching catechetical doctrine ; and that in their catechetical sermons, they more especially insist upon the great and fundamental truths, according to our confession of faith and catechisms ; such as the being and providence of God, and the divine authority of the scriptures ; the necessary doctrine of the ever blessed trinity in the unity of the Godhead ; particularly, the eternal Deity of our Lord and Saviour Jesus Christ, and the satisfaction to divine justice made by him, who is our only propitiation ; regeneration by efficacious grace ; free justification through our blessed surety the Lord Jesus Christ, received by faith alone ; and the necessity of a holy life, in order to the obtaining of everlasting happiness ; and that they be constant and instant in their prayers to God, that, through his blessing upon their labours, their flocks may be preserved from the infection of dangerous errors, and engaged to maintain a conversation becoming the gospel of our Lord and Saviour Jesus Christ, who is God over all blessed for ever.—*Act 8.*



1736. Recommended to all ministers and preachers, seriously to observe and consider the directory of this church concerning the preaching of the word, approved by General Assembly 1645 : And in particular, that they be careful to warn their hearers against any thing tending to Atheism, Deism, Arianism, Socinianism, Arminianism, Bourignonism, Popery, Superstition, Antinomianism, or any other errors ; and that in their sermons they insist frequently upon the truth, necessity, and excellency of supernatural revelation, the supreme deity of the Son and Holy Ghost, as well as the Father, together with the oneness of the godhead, our sinful state by nature, the necessity of grace, and of faith in Christ ; and that they make it the great scope of their sermons to lead sinners from a covenant of works to a covenant of grace for life and salvation, and from sin to Christ : And it is recommended to all who preach the gospel, when they handle the doctrine of God's redeeming love, and of his free grace in the justification of sinners, the blessings of the Redeemer's purchase, and the privileges of the new covenant, to study so to manage these subjects, as to lead their hearers into an abhorrence of sin, the love of God and of our neighbour, and the practice of universal holiness, seeing it is one great end of the gospel to destroy the works of the devil, and to teach men to live soberly, righteously, and godly in this present world. Upon which account, it is incumbent on all who preach the gospel to insist not only upon the necessity and excellency of faith in Jesus Christ for salvation, but also upon the necessity of repentance for sin, and reformation from it, and to press the practice of all moral duties, both with respect to the first and second tables of the law, as indispensably necessary in obedience to God's command, to testify our gratitude to him, to evidence the sincerity of our faith, for the benefit of human society, adorning the profession of religion, and making us meet for eternal life, seeing without holiness no man can see the Lord. And it is seriously recommended to all ministers and preachers of the gospel, that in pressing moral duties, or obedience to the law, they shew the nature and excellency of gospel

holiness, and enforce conformity to the moral law, both in heart and life, not from principles of reason only, but also, and more especially, of revelation : And in order thereto, it is necessary to shew men the corruption and depravity of human nature by their fall in Adam, their natural impotence for, and aversion to what is spiritually good, and lead them to the true and only source of all grace and holiness, viz. union with Christ, by the Holy Spirit's working faith in us, and renewing us more and more after the image of God : And to let their hearers know that they must first be grafted into Christ, as their root, before their fruit can be savoury unto God ; that they must have a new principle to animate, and a new end to direct them, before their actions become gracious and acceptable in the sight of God : And that they teach them the necessity of living by faith on the Son of God, in a constant looking to, and dependence upon him, as the great author of all gracious influences for the performance of every duty ; and withal, that after their best performances and attainments, they must count themselves but loss and dung in point of justification before God ; and to make it their great desire only to be found in Christ and his righteousness : And that ministers, in application of their sermons, endeavour rightly to divide the word of truth, speaking distinctly to such various cases of the converted and unconverted, as arise natively from the subject they have been handling : And that in the whole of their discourses, they take care to suit themselves to the capacity of their hearers, as to method, matter, and expression, and to the prevailing sins of the time and place, with all prudent and zealous freedom and plainness : As also, that they make gospel subjects their main theme and study, and press with all earnestness the practice of moral duties in a gospel manner : And that they forbear delivering any thing in public, that may tend more to amusement than edification, and beware of bringing into their sermons and public discourses, matters of doubtful disputation, which tend to engender strife, rather than promote the edification of christians : And all are exhorted to study to maintain the unity of the spirit in the

bond of peace: And finally, it is recommended to all professors of divinity, to use their best endeavours to have the students under their care well acquainted with the true method of preaching the gospel as above directed; and that presbyteries, at their privy censures, enquire concerning the observation of this *Act* 7.

1749. Recommended to ministers to instruct the people under their care, and for that purpose, to preach expressly, at least four Lord's days every year, on the principles of pure christianity opposite to the errors and corruptions of popery, and on the grounds and reasons of the reformation, and the principles on which the late glorious revolution, and our present happy establishment are founded.—*Act* 4.

## PRESBYTERIES.

1638. All presbyteries erected since the year 1586 are ratified, and new presbyteries are erected according to a particular note registered in the books of Assembly.—*Act Sess.* 23, 24, *Dec.* 17, 18, § 1, 2.

That absents from presbyteries be censured.—*Act id.* *Art.* 3.

Declared, That the power of presbyteries, and of provincial and General Assemblies hath been unjustly oppressed, and never lawfully abrogated; and therefore, that it hath been most lawful to them (notwithstanding any point unjustly objected by the prelates to the contrary) to choose their own moderators, and to exercise all the parts of ecclesiastical jurisdiction, according to their own limits appointed them by the kirk.—*Act Sess.* 13, *Dec.* 5.

Presbyteries are ordered to meet weekly, both in summer and winter, except in places far distant, who during the winter season, *i. e.* betwixt the 1st of October and the 1st of April, are dispensed with, for meeting once in the fourteen days: And all absents are to be censured, especially those who should exercise and add, according to the act of Assembly 1582: And that some

controverted head of doctrine be handled in the presbytery publicly, and disputed among the brethren, every first presbytery of the month; according to Act 12, Ass. 1598, held at Dundee.—*Act Sess.* 23, 24, Dec. 17, 18, § 2.

1638. Declared, That presbyteries have power to admit ministers, and choose their own moderators.—*Ibid.* § 7.

1646. That correspondence be kept amongst other presbyteries constantly by letters, without prejudice to the personal correspondence when need requires, that one presbytery may understand what many are doing, and that they may be mutually assisting to each other.—*Act Sess. ult. June* 18, Art. 1.

1690. The ministers of different presbyteries associating in presbyteries allowed and approven, aye and until the vacancies of the said presbyteries be filled; and they are declared to have the authority and power of presbyteries respectively; and that notwithstanding, according to the old platform, the said ministers do reside in the bounds of different presbyteries.—*Act* 8.

1694. Recommended seriously to all the presbyteries within the church, to set up the use of the exercise and addition: as also, that of privy censures, conform to the ancient practice of this church; and their diligence therein is appointed to be recorded in their respective registers: And recommended to the several presbyteries, that they be careful to keep and maintain bursars of theology, conform to the ancient practice, and the acts of former Assemblies.—*Act* 17.

1700. All presbyteries and synods are required to be careful in revising the registers of the judicatures under their immediate inspection, and that they appoint a competent number of the most fit and experienced ministers for that work; and when they find nothing to challenge in any register, they give the same the attestation following: "The presbytery of —, having heard the report of those appointed to revise the session-book of —, and having heard the remarks thereupon, and the said session's answers thereto: And having inquired by the moderator, if any other had any complaints to make against

the actings of that session, and nothing appearing censurable, ordered the clerk to attest this in their session-book." And so for the registers of provincial synods and presbyteries, *mutatis mutandis*; but if there be any thing truly censurable in the said book, and in itself material, with respect to discipline, that it be recorded as censured, both in the book and attestation.—*Act 9.*

### PRINTING.

1638. All persons within the kingdom are discharged and prohibited to print any act of the former Assemblies, or any of the acts or proceedings of that Assembly, any confession of faith, any protestation, any reasons *pro vel contra* anent the present divisions and controversies of this time, or any other treatise whatsoever, which may concern the Kirk of Scotland, or God's cause in hand, without warrant subscribed by Mr. Archibald Johnston, as clerk to the Assembly, and advocate for the kirk; or to reprint, without his warrant, any acts or treatises foresaid, which he hath caused others to print, under the pain of ecclesiastical censures, to be executed against the transgressors, by the several presbyteries; and in case of their refusal, by the several commissions from this Assembly: Whereunto civil authority is also expected.—*Act Sess. 26, Dec. 20.*

1700. All persons are prohibited and discharged to print any petition, address, appeal, reasons, or answers, or any part of any process to be brought in to the General Assembly, or any other church judicatory, without leave given by the respective presbyteries, before whom the same is in dependence; with certification, that no respect shall be had thereto, by reading or considering the same, in case they contravene this enactment.—*Act 17.*

1727. It is enacted and declared, That in case parties concerned in processes brought before the judicatories of this church, shall think fit to print states of their case, or other papers relating to said processes, it is only under these restrictions, viz. That a written copy of such printed

papers be given in to the clerk of the judicatory, subscribed by the party or his commissioner, to the end, that if any thing that is false, or not instructed, be therein inserted, or any indecent expressions used, the subscriber may be censured according to the demerit of his fault: And parties are discharged to disperse, or the members of the church judicatories to regard, any printed paper concerning matters depending before them, not subscribed in the terms of this *Act* 6.

### PROBATIONERS.

1638. All oaths and subscriptions exacted by prelates of intrants to the ministry, preceding the date of this act, are declared unlawful, and no ways obligatory.—*Act Sess.* 13, *Dec.* 5.

That none be admitted to the ministry before they be twenty-five years of age; except such as, for rare and singular qualities, shall be judged, by the General and Provincial Assembly, to be meet and worthy thereof; and Act of Ass. 1582, to that purpose, is renewed by *Act Sess.* 23, 24, *Dec.* 17, 18, *Art.* 13.

In the trial of expectants before their entry to the ministry, it being notour that they have subscribed the confession of faith then declared in that Assembly, and that they have exercised often, privately and publicly, with approbation of the presbytery; they shall first add, and make the exercise publicly, and make a discourse on some common head in Latin, and give propositions thereupon for dispute; and thereafter be questioned by the presbytery upon questions of controversy and chronology, anent particular texts of scripture, how they may be interpreted, according to the analogy of faith, and be reconciled; and shall be examined upon their skill of the Greek and Hebrew; and they are to bring a testificate of their life and conversation from their college or presbytery, where they reside.—*Act Sess.* 23, 24, *Dec.* 17, 18, *Art.* 23.

1639. That all ministers or intrants presented to kirks,

be tried before their admission, if they be qualified for the places to which they are presented ; besides the ordinary trial of expectants, before their entry to the ministry.—*Act Sess. 22, Aug. 29, Art. ult.*

1640. That expectants refusing to subscribe the covenant, be declared incapable of a pedagogy, teaching a school, reading in the kirk, or preaching within a presbytery ; and shall not have liberty of residing within a burgh, university or college ; and if they continue obstinate they shall be processed.—*Act Sess. 10, Aug. 5.*

1641. That, 1. No expectant be permitted to preach in public before a congregation till first he be tried after the same manner, howbeit, not altogether with that accuracy which is enjoined by the act of Ass. Dec. 1638, which prescribes the order and manner of trial that is to be kept with those that are to be admitted to the holy ministry ; and that none so tried do preach in public, without the bounds of the university or presbytery where he passed trials, till first he make it known to the other presbytery, where he desires to be heard, by a testimonial from the university or presbytery where he lived, that he hath been of an honest conversation, and passed his trials conformed to the order here prescribed ; which being done in the meeting of the province or presbytery where he desires to be heard, he is to be allowed by them to preach within the bounds of the province or presbytery, without any further trial to be taken of him. 2. Expectants being educated in a college that was corrupt, or under a corrupt ministry, if they themselves have been known to have been tainted with error, or opposite to the covenant and the blessed work of reformation within this kirk, the same order is to be kept in admitting them to the holy ministry, or to any place in the colleges or schools of this kingdom ; that was ordained to be kept in the admission of those ministers who fled out of the country, and shewed themselves opposite to the covenant and reformation.—*Act Sess. 15, Aug. 7, Art. 2, 3.*

1642. The meaning of Act Sess. 22, Aug. 29, Ass. 1639, is declared not to be, that an actual minister to be transported, shall be tried again by the trials appointed

for the trial of expectants, at the entry to the ministry, according to the acts of Assembly; but only that he, bringing a testimonial of his former trials, and of his abilities and conversation from the presbytery from whence he comes, and giving such satisfaction to the parishioners and presbytery whereto he comes, in preaching, as the presbytery finds his gifts fit and answerable for the condition and disposition of the congregation where he is presented: Because, according to Act of Assembly 1596, renewed by Act 1638, Art. 9, some that are meet for the ministry in some places are not meet for all alike; and universities, towns, and burghs, and places of noblemen's residence, or frequency of papists, and other great and eminent congregations, and sundry other cases, require men of greater abilities than will be required necessarily in the planting of a private small parish: the leaving of the consideration of these places to the judgment of the presbytery, was the only intention of the act: And the said act, according to the foresaid meaning, is ratified and approved.—*Act Sess. 6, Aug. 2.*

1642. Ordained, That every presbytery give up yearly to their synods, a roll or list of the ablest of their expectants, who have undergone due trials, and after trials have been upon public exercise, at least, for the space of half a year, or longer, as the presbytery shall find necessary, or even of actual ministers; and that the synods elect out of these rolls such persons whom they, in certain knowledge, judge most fit for the ministry, and worthiest of the first place; and synods are empowered to add to, or alter these rolls given by the presbyteries, as they shall think reasonable; and that synods send the rolls made by them in this manner to the next Assembly, who shall also examine the rolls of the synods, and add to or alter the same, as shall be thought expedient; which roll made by the Assembly shall be sent to every presbytery; and that the presbytery, with consent of the most or best part of the congregation, make a list of six persons willing to accept of the presentation out of that roll of the Assembly, upon every occasion of vacation of any kirk within their bounds, and shall send the same, together



with a blank presentation (if his majesty be patron of the parish) by the procurator or agent of the kirk, to such as the commissioners of the General Assembly, or, in their absence, the presbytery of Edinburgh, shall direct, and think at that time most able and willing to obtain the presentation to be signed and filled up by his majesty's choice of one of the list ; and if the vacant kirk be of a patronage disposed by his majesty since the 3d of January, in that case, that either the presbyteries themselves send a list of six persons in manner foresaid, with a blank presentation to the patron, to be filled up by his choice, or send the same to the said officers of the kirk, to be conveyed by them to the patron of the vacant kirk, as the presbytery shall think most expedient ; and that expectants thus presented be again duly tried before their admission : And for the better discovering of the right and interest of the kirk, and presbyteries in kirks, whereof gifts of patronage may be presented to the exchequer, every presbytery is ordained, with all diligence, to use all means of exact trial of the nature and quality of all kirks within their bounds ; as, what kirks belong to the king's patronage, and what to other laick patronages, what kirks of old were planted by presbyteries, and what by prelates and bishops before the Assembly at Glasgow in 1638 ; what hath been the way and time of the change of the planting and providing of kirks, if any have been changed, or any other thing concerning the nature and quality of every kirk within their bounds, and to send the same to the procurator of the kirk with all diligence.—*Act Sess. 7, Aug.*

1643. In respect of the difficulty of obtaining six able and well qualified persons to be put into the list to his majesty, for every vaiking kirk, in his majesty's presentation, recommended to his majesty's commissioner, and undertaken by him, to represent to his majesty, that it is the Assembly's humble desire that he would be pleased to accept of three, for kirks in the Lowlands, and of any one qualified man, having the Irish language, for kirks vaiking in the Highlands ; and recommended to every presbytery to advise upon the best ways and means for providing and planting vacant kirks, that all occasions of

contests and differences among patrons, presbyteries, and parishes, might be removed, and report to the next Assembly.—*Sess. ult. Aug. 19.*

1646. That for the better breeding of young men to the ministry who are not able to furnish themselves in charges to attend the universities, the presbyteries where they reside are to appoint some to direct their studies.—*Act Sess. ult. June 18, Art. 2.*

Recommended to the commissioners for public affairs to seek redress from the parliament in relation to the great burdens intrants undergo when they enter the ministry, which hold many of them long at under, and that ministers' manses and stipends may be all made free to the intrant: And they are appointed to consider of some fitting overtures to be presented to the parliament for that effect.—*Sess. ult. June 18.*

1647. All former acts for trial and admission of intrants to the ministry, especially Act 13 and 23 of Act Sess. 23, 24, Dec. 17, 18, Ass. 1638, and Act Sess. 7, Aug. 3, Ass. 1642, are revived; and presbyteries are ordained to observe the same in all time coming.—*Act Sess. 27, Aug. ult.*

1694. That no presbytery admit any person to trial, in order to preaching, but such as are of sound principles, and of a sober, grave, prudent, and pious behaviour, and of whom they have ground to conceive good hopes that they shall be useful and edifying in the church: And for this end it is appointed, That such persons shall produce before the presbyteries who admit them to trial, sufficient testimonials from the ministers of the parishes where they lived, and from the presbyteries in whose bounds they reside, and also from the professors of divinity, where they may have attended the profession for some time: And if the said persons come from a place where there is no presbytery yet constituted according to the legal establishment, they shall produce testificates from the next adjacent presbytery, who are to inform themselves concerning their principles and behaviour, and to testify of them accordingly. And appointed, That when such persons are first licensed to be probationers,

they shall oblige themselves to preach only within the bounds, or by the direction of that presbytery which licensed them ; and they shall also, by promise and subscription, engage themselves to be subject to that presbytery which licensed them, or to any other church judicatory, wherein by Providence they shall have their abode, for shorter or longer time ; and that they shall follow no divisive course : And this their engagement shall be inserted in the body of their license. And further, it is appointed, that when they are removing from that presbytery which licensed them, they shall carry with them an extract of their license, and a testimonial from the presbytery, of their carriage ; which they are to present to the presbytery to which they come, or at least, to some minister therein, before they preach within that bounds ; and which minister is not to employ them, except in his own pulpit, until he give notice thereof to the presbytery at their next meeting, and have their allowance. It is also appointed, That the presbytery to which the said probationers do so come, shall require the same subjection and orderly carriage from the said probationers, during their abode in that bounds, to which they were engaged to the presbytery by which they were licensed : And if they go to any place where a presbytery is not yet constituted according to the legal establishment, they shall be obliged, before they preach in that bounds, to make their address to the next adjacent and legally established presbytery, to whom they shall be subject, and by whom they shall be directed as aforesaid : And in case the said probationers shall malverse in doctrine or conversation, they shall be accountable to, and censurable by the said respective judicatories, as they shall see cause : And if the said probationers refuse subjection, or prove contumacious to such censure, whether of reproof, suspending from the exercise of their license, or of recalling the said license, intimation shall be made thereof by the said judicatories, to the neighbouring judicatories, or where they shall understand the said probationers are ; that so none may employ them to preach, nor their after irregularities be imputed to the presbyteries that licensed them,

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or where they afterwards had their abode. And it is provided and declared, That the foresaid probationers are not to be esteemed, by themselves or others, to preach by virtue of any pastoral office, but only to make way for their being called to a pastoral charge.—*Act 10.*

1694. Recommended seriously to all presbyteries, that they fix no preachers or intrants, having the Irish language, in any congregation within the Lowlands of Scotland, without the consent of, and a certificate from the presbyteries in the Highlands where they formerly resided.—*Act 21.*

*Note.*—This act was to continue till the Highlands were completely provided with ministers.

1695. That all probationers who apply to presbyteries, bring not only sufficient testimonials, but also a letter from a known person to the presbytery, and that the presbytery write them from whom the testimonials come (if need be) to know the verity thereof.—*Act 13.*

1696. Appointed, That strict inquiry be made into the piety, gravity, prudence, sobriety, orthodoxy, and learning of such as are offered to presbyteries, in order to passing their trials, and that such be rejected as have not sufficient testimonials from universities, of their good behaviour and sufficiency (and that the usual school degrees be inquired after, though not made a necessary qualification), or at least should not be found to have retrieved their lost time at schools, by their after diligence: As also, that such as are esteemed to be vain or imprudent, or proud, or worldly minded, by the generality of sober intelligent persons, who converse with them, shall be kept back from that work. Recommended to professors of divinity, that they require of such students as they employ in any exercises, testimonials from universities where they have studied, and places where they have lived. Required, that none be licensed to preach, or be ordained to the ministry, unless they give good proof of their understanding Greek and Hebrew: And recommended to all candidates for the ministry, to study also the other oriental languages, especially the Chaldaic and Syriac, so far as they can: Also recommended, that they be tried

not only in the great controversies in religion, but also in the controversies concerning the government and discipline of this church.—*Act 22.*

1697. Appointed, That the commissioners from the several presbyteries within this church bring in an account to the General Assembly yearly, of all the students of divinity who have passed their trials in order to the ministry, from one Assembly to another: As also, of all others who have not passed trials, that have an eye to the holy ministry, and attend the lessons of the several professors of divinity in the universities, and perform the exercises enjoined them there, that a roll may be made of them, and their names read in open Assembly, and recorded in the registers thereof.—*Act 3.*

1704. Appointed, That strict notice be taken of such as pass their trials in order to the ministry, and for that end all former Acts of Assembly made in relation thereto, and in particular, the article allowed by the General Assembly 1596, and approved in the General Assembly 1638, Art. 3, Sess. 7, renewed Sess. 27, Aug. ult. Ass. 1647, anent the age of such; as also, Act 10, Ass. 1694, and Act 22, Ass. 1696, are all ratified and revived: And further ordained, that the catechetic trials be not perfunctorily gone about; and that presbyteries appoint some of their number to examine them in their own presence, upon the several heads of divinity, and the government of the church, and to know what reasons they can give of their faith, and sentiments in these matters; and if they can answer some principal objections, and that previously to all other parts of their trials: And that this be not done hastily, but that a particular competent time be allowed for that purpose: and that there be one trial also given to probationers, of their gifts as to lecturing: And all the several synods are required and enjoined, at their privy censures, to make strict inquiry how the presbyteries within their bounds have observed this, and other Acts of Assembly made to this purpose.—*Act 10.*

1705. Recommended seriously to the several presbyteries of this church, to keep a watchful eye over all students of theology, and to be careful that none be licensed.

to preach, or admitted into churches, but such as shall give evidence of their orthodoxy, by signing the Confession of Faith, appoven by former Assemblies of this church, and ratified by law in the year 1690, as the confession of their faith; of their good affection to the government of church and state; of their peaceable principles and disposition, by engaging to observe good order, in conjunction with, and due subjection to the judicatories of this church; and of their literature, by abiding a strict trial; and shall own the presbyterian church government of this church to be agreeable to, and founded upon the word of God; and promise never to endeavour, directly or indirectly, the prejudice or subversion thereof, according to former Acts of Assemblies thereanent.—*Act 16.*

1708. The punctual observance of all acts already made, concerning probationers or intrants to the ministry, is seriously recommended to all presbyteries; and some overtures about licensing probationers, and the trial of them, or intrants to the ministry, are transmitted, and the observance of them recommended, until the next Assembly.—*Act 13.*

1711. Enacted, that none be admitted to trials, in order to be licensed, but such as have attended the profession of divinity for six years, or have closely followed the study of divinity and of the languages, for that space at least, after they have passed their course of philosophy at the college, and made proficiency therein, in case their circumstances did not allow them to attend the profession; though it were to be desired that they should attend the profession of divinity much of that time; but this is not extended to students having the Irish language; providing that before any presbytery license such students within the said first six years, they first consult the General Assembly, or the commission thereof, in the matter: And it is further ordained, That none be licensed in any presbytery, except they have resided therein for the space of six years, or produce to them sufficient testimonials from the presbyteries in whose bounds they have last, or for the most part resided, bearing expressly, that it is the desire of these presbyteries that these students should be

entered upon trials: And such students as come from abroad, shall produce satisfying testimonials from the professors under whom they studied; and the time of their being abroad shall be accounted a part of the said six years; but none of these students shall be entered on trials for the space of a whole year after they come to Scotland: And it is also ordained, That the above space of six years being expired, and testimonials produced in manner foresaid, the presbytery which is to take trial of these students, shall, before they enter them upon trials in order to be licensed, write letters to all other presbyteries within the synod, acquainting them with their design; and at the next meeting of the synod, they shall also acquaint the synod thereof, and obtain their special advice and judgment in that particular. And the punctual observance of all acts already made concerning probationers and intrants to the ministry, is seriously recommended to all presbyteries; and that, before any presbyteries receive any upon trials, in order to his being licensed, three or four of the number be appointed to converse with him, and to take trial of his orthodoxy, knowledge in divinity, particularly the modern controversies, and other necessary qualifications for the ministry, and what sense and impression he has of religion upon his own soul; and that they make report of their diligence herein, before the presbytery admit him to the probationary trials. And presbyteries are discharged to put the call of any parish into the hand of the probationer called; and they are appointed to keep the same still in their own hands, until the said probationer's trials be over, and that the presbytery be fully satisfied both as to his sufficiency and fitness for that parish: And certain questions are appointed to be put to all such as pass trials in order to be licensed; as also to such as shall be ordained ministers, or admitted to any ministerial charge or parish: And a *formula* is set down, which they are appointed to subscribe before they be licensed, ordained, or admitted respectively: And the licensing, ordaining, or admitting any who shall not give satisfying answers to these questions, and subscribe the

*formula* here subjoined, is prohibited and discharged.—  
Follow the

*Questions to be put to probationers.*—1. Do you believe the Scriptures of the Old and New Testament to be the word of God, and the only rule of faith and manners? 2. Do you sincerely own and believe the whole doctrine of the confession of faith, approved by the General Assemblies of this national church, and ratified by law in the year 1690, and frequently confirmed by divers acts of parliament since that time, to be the truths of God contained in the Scriptures of the Old and New Testament? And do you own the whole doctrine therein contained as the confession of your faith? 3. Do you sincerely own the purity of worship presently authorized and practised in this church, and asserted in Act 15, Ass. 1707, entitled, Act against innovations in the worship of God? And also own the presbyterian government and discipline, now so happily established in this church? And are you persuaded, That the said doctrine, worship, discipline, and church government are founded upon the holy Scriptures, and agreeable thereto? 4. Do you promise, That, through the grace of God, you will firmly and constantly adhere to, and in your station, to the utmost of your power, assert, maintain, and defend the said doctrine, worship, discipline, and the government of this church by kirk-sessions, presbyteries, provincial synods, and General Assemblies? 5. Do you promise, That in your practice you will conform yourself to the said worship, and submit yourself to the said discipline and government of this church, and shall never endeavour, directly or indirectly, the prejudice or subversion of the same? 6. Do you promise, That you shall follow no divisive courses from the present establishment of the church? 7. Do you renounce all doctrines, tenets, or opinions whatsoever, contrary to, or inconsistent with the said doctrine, worship, discipline, and government of this church? 8. Do you promise, That you will subject yourself to the several judicatures of this church?—Follows the

*Formula.*—I, ———, do hereby declare, That I do



sincerely own and believe the whole doctrine contained in the confession of faith approved by the General Assemblies of this national church, and ratified by law in the year 1690, and frequently confirmed by divers acts of parliament since that time, to be the truths of God; and I do own the same as the confession of my faith: As likewise, I do own the purity of worship presently authorized and practised in this church; and also, the presbyterian government and discipline, now so happily established therein; which doctrine, worship, and church government, I am persuaded, are founded upon the word of God, and agreeable thereto: And I promise, That through the grace of God, I shall firmly and constantly adhere to the same; and, to the utmost of my power, shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this church by kirk-sessions, presbyteries, provincial synods, and General Assemblies; and that I shall, in my practice, conform myself to the said worship, and submit to the said discipline and government; and never endeavour, directly or indirectly, the prejudice or subversion of the same: And I promise, That I shall follow no divisive course from the present establishment in this church; renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with the said doctrine, worship, discipline, and government of this church.—*Act 10.*

1713. For explication of the above Act 10, Ass. 1711, it is declared to be fit, That, before one presbytery grant a recommendation or desire to another presbytery, for entering a student of divinity upon trials, they take the usual private trials appointed by the said act to be taken of such students, as if they were to be passed before themselves.—*Act 10.*

1714. The strict observation of Act 5, Ass. 1705, and of Act 10, Ass. 1711, and other Acts of Assembly, about trying and licensing probationers, is seriously recommended to all professors of divinity, and presbyteries within this church: And it is further recommended to presbyteries, That they cause read to the young men about to be tried, the engagements required by the said

Act 10, Ass. 1711, of such as are to be licensed ; and that they take a promise of the said young men, That they will subscribe to, and punctually observe the same, in case they be licensed : And presbyteries are desired to record this their promise in their books, and to cause all this to be done before any part of the public trials be prescribed : And in case of students bringing testimonials from their professors, or from presbyteries wherein they have for the most part resided, in the terms of the fore-said acts, in order to their passing trials in some other presbytery ; such presbytery, to whom they come so recommended, are not to begin their trials, until they have resided at least half-a-year immediately before in their bounds : And the visitors of presbytery-books are appointed to report to their synods an account of the diligence of the several presbyteries in this matter ; but it is provided, that what is above contained shall not be extended to students having the Irish language.—Act 6.

1715. The ordinary allowances payable by the acts of Assembly to preachers, sent from time to time by the Assembly, or commissions thereof, to supply vacant churches, or in order to be settled in the north, the Highlands, and Islands, are appointed to be paid next to the stated annual charges of the church, and before any other claim and demand whatsoever, that shall be made out of the church's public money.—Act 5.

1727. Enjoined, That all former acts made with respect to the entering of students upon trials for the ministry be strictly observed. And further, it is appointed, That when any presbytery about to enter a person upon trials, shall receive a letter from another presbytery, shewing their dissatisfaction with said person, and giving grounds for it, he shall not be licensed until the synod give their directions in the matter, unless the presbytery which shewed dissatisfaction afterwards signify their consent that the trials should go on. And presbyteries who shall receive such letters about students, are appointed to write a return to them, by first post after their meeting. And likewise appointed, That when any young man comes to wait upon the profession of divinity in any university, he

shall bring a certificate from the minister whence he comes; and when he leaves the profession, he shall also take with him, besides the professor's certificate, a testimonial from the minister of that parish in which he resided when he attended the profession.—*Act 12.*

1735. Recommended to all presbyteries and ministers, when they come to know any error or vice in students of divinity, to give notice thereof to the professors of divinity under whom such students are taught, with an account how the same can be proved; and also recommended to them not to be rash or hasty in receiving reports to the prejudice of students, but to be careful to discourage groundless or malicious reports, and to protect the characters of such as do not appear to be truly guilty: And recommended to professors of divinity diligently to inquire concerning the principles and the practice of the youth under their care; and the former recommendation to professors of divinity, contained in Act 22, Ass. 1696, concerning the requiring of testimonials from students whom they admit to exercises, is renewed.—*Act 6.*

1736. Enacted, 1. That every probationer residing two months within the bounds of any presbytery, shall present his license to the same; and that the said presbytery mark in their register, the probationer's name, and the presbytery which licensed him. 2. That each presbytery extract from their records annually, in March or April, a complete list of probationers then residing, or who have resided for the above space, within their bounds, mentioning in these extracts, first, the names of their own licentiates, and then the names of the others residing as above, with the presbytery who licensed them. 3. That these extracts be made out upon the schedule which bears the presbytery's commission to their members to the General Assembly, and be signed in like manner by the moderator or clerk; and that the extracts further mention the names of students then under trials before the presbytery. 4. That the committee for examining commissions to members of Assembly, shall annually make up a roll of probationers and students from these extracts; and that it be presented to the General Assembly, as a part of the

committee's annual report, and be recorded in the Assembly's register.—*Act 9.*

1736. Enjoined, that none coming licensed from abroad be allowed to preach in Scotland, till they be re-examined, and come under the engagements, and sign the *formula*, according to Act 10, Ass. 1711.—*Act 16.*

1745. Enjoined on presbyteries to be strict in advertising, that young men whom they license to preach the gospel, be persons of good report, and carefully observe their behaviour after they are licensed; and appointed, That the rules of the form of process, chap. 7, with respect to informations against ministers of this church, be extended to probationers.—*Act 9.*

*Note.*—This act was afterwards transmitted to presbyteries as an overture.

1754. Enjoined, That all presbyteries take care in licensing probationers, strictly to observe the rules of the word of God, and Acts of Assembly relative thereto; also to observe the rules of this church with respect to probationers for the ministry, licensed in England, or foreign parts; that before taking any steps towards a settlement in consequence of a presentation, they take care that the patron and presentee be duly qualified, and that the presentation be in terms of law; and that when one is presented to a parish against whom there appears to be no just objection, they use their best endeavours to render the presentee acceptable to the parish.—*Act 4.*

1761. Enacted, That before any presbytery or synod agree to take upon trials any blind man, they first consult the General Assembly.—*Act 6.*

1782. Enacted, That in licensing probationers the following regulations shall be strictly observed in all time coming, 1. That no presbytery admit any person to probationary trials, but such as are found to be of good report, sufficient learning, sound principles, pious, sober, grave, prudent behaviour, peaceable disposition, well-affected to government in church and state, and who, they have good grounds to conceive, will be useful and edifying in the church, and that careful inquiry be made thereanent; and that such as are esteemed light and vain

in their behaviour, proud, worldly-minded, or unacquainted with the power of practical godliness, be kept back from that sacred work. 2. That none be admitted to trials in order to be licensed, but such as have produced to the professor of divinity, at the time of being enrolled, either a diploma of master of arts, or a certificate, bearing that they have gone through a full course of philosophy at the college, and who have either given close attendance on the divinity-hall for the space of four years, from the time of their enrolment as students in divinity; or, if their circumstances did not allow them to give close attendance on the hall, have continued to prosecute the study of divinity for six years, and have in that time delivered the usual number of discourses; provided, that at the time of their being admitted to trials, they are twenty-one years of age complete. 3. It is recommended to presbyteries, professors of divinity, ministers, and members of the church, to keep a watchful eye on such students, during the terms above specified: And further, That when any student comes to attend the profession of divinity in any university, he shall produce to the professor, and to the minister of the parish where he is to reside, during the time of his attendance on the profession, a testimonial from the minister of the parish from whence he comes; and when he leaves the profession, he shall carry back testimonials from the minister of the parish, of his grave and suitable behaviour becoming his character; and from the professor, testimonials certifying the same, and also his regular attendance on the diets of the profession, and the time he has attended. And when any professor of divinity shall think fit to recommend a student, in order to probationary trials, his testimonials shall certify his proficiency in his studies, and moral character. 4. It is appointed, That no presbytery admit any student to probationary trials, except such as have resided within their bounds for the space of six months, or do produce to them sufficient testimonials from the presbytery in whose bounds they have lived, or for the most part resided, expressing, that it is the desire of those presbyteries that those students should be entered upon trials

And such students as come from abroad shall produce satisfying testimonials from the professors under whom they have studied ; and the time they have been abroad shall be accounted a part of the six years ; and none of these students shall be entered upon trials for the space of half-a-year after they come to Scotland. 5. When any student is proposed to a presbytery, in order to be taken on trials, the proposal shall lie on the table till next ordinary meeting, before they give judgment therein, that diligent inquiry may be made, and information had concerning the student's qualifications and behaviour ; and the presbytery shall be alone when the proposal is made and judged on ; and it is enjoined, that students take all opportunities of cultivating an acquaintance with the ministers of the presbytery where they reside, and where they are to pass trials. 6. When the presbytery, after serious inquiry and mature deliberation, shall agree to take the proposed candidate on trials, they shall examine him privately, in order to enable them to judge whether he possesses the piety, knowledge, abilities, and other qualifications necessary for a preacher of the gospel. 7. It is appointed, that the same method be observed, and trials taken, in all the above particulars, before any presbytery recommend a student to pass trials in another presbytery. 8. Ordained, That the terms above specified being expired, and testimonials produced, and previous trials taken in manner above directed, the presbytery, before they prescribe any part of the public trials, shall write letters to all the presbyteries within the bounds of the synod, acquainting them with their design two months at least before the sitting of the synod ; and at the next meeting of the synod, they shall also acquaint the synod thereof, and obtain their special judgment and advice in that particular ; and, that the members of the said presbytery and synod may be ripely advised thereanent, it is appointed that the said letters be duly and carefully transmitted to the several presbyteries, and that intimation thereof be publicly made at the first diet of the synod, to lie on the table till the second or some subsequent diet, and then particular inquiry be made whether any person have any

thing to object against the students being entered upon trials for preaching the gospel ; providing always, that in any part of this church where synods meet but once a-year, a student may be proposed to the synod half-a-year sooner than would have been competent if the synod had met twice a-year. 9. It is recommended to presbyteries, that before any student is entered on trials, the engagements required by Act 10, Ass. 1711, of such as are to be licensed, be read to them ; and that the presbytery take promise of them, that they will subscribe to, and particularly observe the same, in case the presbytery see cause to license them ; and that this promise be recorded in their books. 10. It is appointed, That the public probationary trials of students, who are to be licensed probationers, be the following, viz. The catechetical trials to be renewed in presence of the presbytery, and that previously to all the other parts of public trials—a homily in English on a scripture text—an exegesis in Latin on a controverted head of divinity, and sustaining a thesis and dispute thereon—an exercise and addition—a lecture on a large portion of scripture—a popular sermon—a trial on chronology and church history, especially the history of our own church—and a trial on their knowledge of the Greek and Hebrew languages. 11. It is enacted, That the questions appointed by Act 10, Ass. 1711, be put to all such as pass trials ; and likewise, that they shall subscribe the *formula* set down in that act, before they be licensed to preach the gospel ; and the General Assembly prohibit the licensing any person who shall not give explicit and satisfying answers to these questions, and subscribe the said *formula* ; and discharge any presbytery to make use of any other questions or *formula*. 12. When any presbytery, who with the synod's allowance, has entered, or who is about to enter a student on trials, shall receive a letter from any presbytery, shewing their dissatisfaction with that student, and giving relevant grounds for the same, which they offer to verify to the presbytery at their next meeting, the said student shall not be licensed until the matter be tried : And appointed, that presbyteries who shall receive such letters anent

students from any other presbytery, write a return by the first post after the meeting, acquainting them with their next diet. 13. That the acts concerning simony be read before licensing any probationer. 14. For the better observance of this act, it is particularly recommended to professors of divinity, to communicate the contents thereof to their students in a public meeting annually, at such time in the month of January as to them seems most convenient. And all presbyteries and synods are peremptorily appointed to observe the same in all parts: And it is strictly enjoined, that visitors of presbytery-books make strict inquiry how the several presbyteries observe the same.—*Act 8.*

1813. Ordained, That in all time coming, the following regulations be strictly observed: 1. Enacted, That no student be entered upon the roll of any professor of divinity, unless he shall produce to the professor a certificate from the minister of the parish in which he has his usual residence, or, in his absence, or during a vacancy in that parish, from some neighbouring minister, bearing that his character is suitable to his views; together with a diploma of master of arts, or certificates from the several professors of philosophy under whom he had studied, from which it may be clearly ascertained that, in some university or universities, he had gone through a full course of philosophy in some winter sessions of college preceding that in which the certificates are produced. 2. Ordained, That all students who have been enrolled by professors of divinity, in the manner prescribed, continue to prosecute the study of divinity for the term of six sessions, provided, that if any student hath given regular attendance on the divinity-hall during three sessions, his course shall be considered as completed in four sessions; and that if he hath given regular attendance in the hall during two sessions, his course shall be considered as completed in five sessions: Ordained, That in each of these cases, students be enrolled by the professors during the several sessions of their respective courses, and deliver in the divinity-hall, in the manner afterward provided, an exegesis in Latin on some controverted head of divinity,



a homily in English, an exercise and addition, a lecture on some large portion of scripture, and a popular sermon, together with such other exercises as the professors think proper to prescribe. Further enacted and declared, that a student is entitled to apply to the professor for his certificates, that he may be proposed for trials, and that the preliminary steps may be taken by the presbytery during the currency of the last session of his course, as above described; with the limitation, that if the last session is to be claimed as a session of regular attendance, he shall, toward the conclusion thereof, obtain a new certificate of his attendance during its currency, and produce the same to the presbytery or synod. 3. Professors of divinity are required to attend, as much as circumstances may permit, to the conduct of such students as are under their care; and as far as they find it practicable; to insist that every student deliver his first discourse some time during his second session at the latest, and the remainder of his discourses at such periods as may enable him to deliver the whole of them before the end of January of the last session of his course. 4. When a student is proposed to any presbytery, in order to be taken upon trials, the presbytery shall be alone, and the motion for that purpose shall lie upon the table till their next ordinary meeting. In the meantime, the presbytery shall appoint the member by whom the student has been proposed, to lay before the meeting the certificate or certificates in favour of the student, that are specified in the third paragraph of the third section of the act; to desire him to attend the same, and to inform him, that, previously to the meeting, he ought, as far as circumstances may permit, to wait on such ministers of the presbytery as have not formerly had an opportunity of conversing with him in private. 5. When the time appointed for considering the motion is arrived, the presbytery shall strictly observe the following regulations: 1. The presbytery shall be alone, while they are employed in discussing the several preliminaries respecting students who are proposed for trials. 2. They shall require satisfying evidence that every student who is proposed for that purpose has com-

pleted the twenty-first year of his age. 3. No student shall be admitted to trial, unless he produces to the presbytery a certificate or certificates from the professor or professors of divinity, under whose tuition he hath studied, bearing, that he hath prosecuted his studies, and delivered his discourses, in the manner prescribed by this act; and that his conduct, as far as it consists with the knowledge of the professor or professors, has been in every respect suitable to his views in life. Likewise enacted, That the presbytery shall record at full length the certificate or certificates in their minutes: And enacted and declared, that the student having lodged such certificate or certificates, shall be entitled to obtain extracts of the same, if demanded. 4. No presbytery shall receive any student upon trials, unless they are satisfied that he is of good report; sound in his principles; pious, sober, grave and prudent in his behaviour; of a peaceable disposition; and well affected to the happy constitution established in this kingdom, both in church and state: And that the presbytery may proceed with all due caution, in a matter of such peculiar importance, they shall not agree to the motion in behalf of the student, unless his residence, during the year preceding, has been chiefly within their bounds, or he produce testimonials from the presbytery in whose bounds his residence has chiefly been during that term, bearing that his character is such as is described in the immediately preceding sentence of this paragraph, and recommending him in those respects to the presbytery before whom the proposal is made, as a proper person to be entered upon trials. 5. The presbytery shall not agree to the motion in favour of the student, unless they are satisfied that he has made a competent degree of proficiency in those several branches of knowledge, which are necessary to enable him to be an useful preacher of the gospel. And ordained, That the presbytery, in order to procure full information in this respect, shall examine the student strictly, and privately, on his knowledge of the Greek and Latin languages, and of philosophy and theology. 6. If after these preliminary steps have been taken, the presbytery shall be of opinion

that the student is duly qualified in these several particulars, they shall record this opinion in their minutes, and order their clerk to write letters to the several presbyteries within the bounds of the provincial synod, two kalendar months at least before the meeting of the same, informing them of the presbytery's intention to take the student upon public trials; and bearing, that the certificate or certificates, in his favour, which are required by this act, have been regularly laid before them. But it is provided, that within the bounds of such synods as meet only once a-year, a student may be entitled to have these circular letters written half-a-year sooner than would be otherwise competent. 7. Enacted also and declared, that at the request of the student, it shall be competent to any presbytery to transfer the receiving of the public trials, or any parts thereof, certifying to the presbytery to which the transference is to be made, that the various preliminary steps have been taken according to the directions of this act; and that such parts of the public and private trials as have been already gone through, have been received with approbation. 8. If a student have studied, either in whole or in part, in protestant universities which are not within the bounds of this church, he shall, when he is proposed to any presbytery for trials, be required to produce satisfying testimonials from the professors of divinity in said universities; and the time which these professors shall certify to have been employed by him in studying divinity under their tuition, shall be computed in the same manner as if he had prosecuted his studies in any of the universities within the bounds of this church. But it is provided, that no student in such circumstances shall be admitted even to those private trials, which are appointed to be taken before the writing of the circular letters, sooner than six kalendar months after his arrival in Scotland. 9. Ordained, that if a presbytery propose to take a student upon public trials, and have, with that view, written the circular letters, as is herein required, public intimation thereof shall be made at some diet of the next meeting of the provincial synod, which shall not be the last diet thereof: And the pres-

bytery clerk is hereby required to transmit to the synod clerk an extract of the certificate or certificates laid before the presbytery in favour of the student, in order that the same may be produced at this diet of the synod. Likewise ordained, that at some subsequent diet of the synod particular inquiry be made whether any of the members of the court has any objection to offer against the student being entered upon public trials: And that the synod then taking into consideration the extract produced, and the whole of the case, shall judge of the expediency of allowing the presbytery to admit the student on trials: Or, if in any case the presbytery clerk fail to transmit the extract of the certificates above mentioned, the student may produce to the synod, by himself, or by any member of the court, the extract of the same, which by this act he is entitled to obtain. 10. If the synod allow the student to be taken upon public trials, the presbytery shall proceed thereupon with all convenient speed: And it is appointed that the following trials be taken of the student, and in the order therein mentioned:—Catechetic trials on divinity, chronology, and church history:—A trial on the Hebrew and Greek languages:—An exegesis in Latin on some controverted head in divinity:—A homily in English:—An exercise and addition:—A lecture on some large portion of scripture:—A popular sermon; it being understood, that if the presbytery see cause, they may examine the student upon the subject of these several discourses. 11. The student having gone through the several trials which are mentioned in the foregoing section of this act, the presbytery are ordained to proceed in the following order: 1. They shall deliberately and seriously take a conjunct view of the whole trials; and, if they shall be of opinion that the student is not properly qualified to perform the duties incumbent upon a preacher of the gospel, they shall by no means grant him a license in his present circumstances. 2. If, upon this review of the trials, the presbytery are fully satisfied therewith, they shall record this opinion in their minutes. 3. The presbytery shall then propose to the student the questions that are appointed to be put to all who pass trials, by Act 10,

Ass. 1711, and require him to subscribe the *formula* which is prescribed by that act. And all presbyteries are strictly prohibited from licensing any student to preach the gospel, who shall not give explicit answers to these questions, and subscribe that *formula*. 4. The presbytery shall order Act 8, Ass. 1759, against simonaical practices, to be read to the student in their presence. Lastly, the presbytery shall appoint their moderator to license the student to preach the gospel, and ordain their clerk to furnish him with an extract of their license. 12. Ordained, that this act be printed among the other printed acts: That it be printed by itself in some convenient form: That a copy of the separate edition be transmitted to each professor of divinity in the universities of Scotland; and that they shall read the same in their respective halls once at least during every session, and at such times as they have reason to expect the attendance of the greatest number of students for that session; and that a copy of the same edition be likewise transmitted to the clerks of each synod and presbytery within the bounds of this church; and that the said clerks keep the same along with their minutes, and bring it up to each meeting of their respective courts for the use of the members.—*Act 8.*

## PROCESS.

1694. Appointed, That all processes or other papers be delivered to the clerk in the intervals betwixt the diets of the Assembly's meeting; and declared, that such as shall be otherwise delivered shall be laid aside for that diet.—*Act 7.*

1704. A committee is appointed to concert and prepare a form of process, for regulating the procedure of church judicatories for the future, and to report to the commission, and they to transmit the same to the several presbyteries for their opinion, to be reported to the next Assembly: And it is recommended to the commission to cause again revise the printed overtures for discipline, with the amendments, and cause reprint and transmit the same to the

several presbyteries, for their opinions, to be also reported to the next Assembly.—*Act 25.*

1707. The foresaid form of process in the judicatures of this church, with relation to scandals and censures, is ratified and approven, and ordained to be observed, as fixed binding rules and directions in the whole matters therein contained, except the 7th, 8th, and 9th paragraphs of chap. 4, and what concerns the pressing of the oath of purgation. As to which, it is only recommended to church judicatories to regulate themselves according to the advice therein insinuated, as they shall find most for edification.—*Act 11.*

### PROFANENESS.

1641. Ministers and people are exhorted to the religious exercises of public and private worship, and to the duties of mutual edification, and charged to endeavour the suppressing of all impiety, and the mocking of religious exercises, and to eschew all meetings which are apt to breed error, scandal, schism, neglect of duties, and particular callings, and such evils; and the execution of this act is remitted to synods and presbyteries. See at large *Act Sess. 10, Aug. 4.*

1694. All ministers, and all who fear God, are exhorted and required to have on their hearts a deep, humbling, and soul-affecting sense of the gross and abominable sins and vices that abound in this nation, and be much in prayer and supplication before God on this account; and that all the ministers of this church preach plainly and faithfully against these vices, and denounce the threatened judgments of God, against such evil-doers, and deal earnestly and much with their consciences, to bring them to a conviction and sense of their sin and danger; and church judicatories are appointed faithfully to exercise church discipline against all such scandalous offenders, with that gravity, prudence, and meekness of wisdom, as, by the blessing of God, may prove an effectual mean of reforming and recovering the guilty, and of

preventing the like sins in others. And it is required, That care be taken in the receiving of servants, and that they have testimonials of their honest and christian behaviour, and that the same be required of all others who flit and remove from one parish to another. And it is appointed, That the ministers and elders in each congregation take care that the worship of God be performed in the several families thereof; and if any family be found which neglecteth this necessary duty, the head of that family is to be gravely, seriously, and earnestly admonished until he amend his fault: And it is recommended to ministers and kirk-sessions, That none be ruling elders who make not conscience of this necessary and unquestionable duty, and no grossly ignorant and scandalous person be admitted to the Lord's table. And it is recommended to ministers and kirk-sessions, That they carefully apply to the several magistrates of their bounds, that the acts of parliament against profaneness may be put in execution, and particularly the act of parliament 1698, 40. And this act is ordained to be publicly read and intimated in all churches.—*Act 13.*

1697. In the first place, all the people of this church and nation are, in the awe and dread of the great God who will not hold them guiltless that break any of his commands, beseeched, warned, and obtested to break off their sins by repentance, and seriously, in the fear of the Lord, to apply themselves to a sober, conscientious, christian, and circumspect walk in all manner of conversation, as becomes the professors of the glorious gospel of the blessed God, and of that religion which is pure and undefiled, as they would not incur the heavy displeasure and just indignation of the Holy One, in being excluded for ever from seeing his face in peace, and pull down his temporal judgments upon themselves, and upon the land. And next, all the ministers of this church are required freely and faithfully to preach against the enormous sins of profane and idle swearing, cursing, Sabbath-breaking, profane withdrawing from, and contempt of gospel ordinances; yea opposing the dispensing of them, by hindering the planting of churches, and discouraging

the endeavours of others for calling and fixing a faithful gospel ministry among them; mocking of piety and religion, and the exercises thereof; fornication, adultery, drunkenness, excessive tippling, deism, blasphemy, and other gross abominable sins, as the crying sins of the time; that people may be brought to a conviction and sense of their heinousness and danger, and may reform, not only for fear, but for conscience. And it is appointed, That presbyteries and kirk-sessions faithfully and impartially exercise church discipline against all such scandalous offenders, and use all suitable means in dealing with their consciences to bring them to an unfeigned repentance and reformation: And it is recommended to ministers and members of kirk-sessions, from a true zeal for God, to hold hand to the delating, informing against, and punishing of all profane transgressors, without respect of persons, by civil punishments, conform to the acts of parliament made in that behalf; and that they record their diligence in their session-books, that the same may be seen by their presbyteries, who are required to make inquiry therein, at their visitation; and lest any be found backward in performing their respective duties, from an unwillingness to displease or disoblige persons of note, who may happen to be guilty, all ministers and elders, and all christians are exhorted to remember, that in this matter they have to do with the great and terrible God, whose honour is to be preferred, and whose wrath is to be feared, before all other considerations whatsoever: And it is overtured, That whatever minister or member of kirk-session be found faulty in neglecting to pursue the foresaid scandal in their stations, the said minister or member of kirk-session be complained of, and censured by the presbytery for the first fault, and that the censure be recorded; and that the second negligence be delated to, and censured by the synod; and that for the third neglect, they be censured by the synod with suspension, to be recorded in the synod-register; and this overture is turned into an Act, *infra*, Ass. 1699. And it is recommended to each minister or kirk-session, who shall find cause to complain of a magistrate for negligence in exe-



cutting the said laws, or for refusing deputation and commission to such persons as are duly elected and presented to them from parishes where there is no ordinary magistrate residing, conform to act of parliament 1696, 31, That they acquaint their presbyteries therewith, and that the said presbytery having used all previous means, in dealing with the consciences of the said magistrates, without any good effect, do, with the kirk-agent, thereafter pursue the said negligent or refractory magistrate before the Lords of Council and Session, according to the fore-said acts of parliament, and that this act be read in all churches within this kingdom twice a-year from the pulpit, viz. upon the first Sabbaths after Whitsunday and Martinmas yearly.—*Act 11.*

1699. Some overtures against profaneness transmitted by Act 15, Ass. 1698, are thus approved: 1. All ministers are beseeched, exhorted, and required, in the awe and dread of God, by the coming of our Lord Jesus Christ, and our gathering together unto him, that they take heed to themselves, and to their doctrine, and endeavour to be examples to the people in all piety, purity, and holiness, in all manner of conversation. 2. That they be frequent and fervent in secret prayer for themselves and the people committed to them, joining sometimes fasting with prayer: And it is recommended to ministers and elders in their several parishes, and ministers in their several presbyteries, to meet sometimes together in their parishes and presbyteries *respective*, for private fasting and prayer, and conference anent the state of the church, and that part of it in which they have special interest, with respect to the growth or decay of godliness, and success of the gospel therein. 3. That presbyteries be more accurate in managing their privy censures, and that a day be set apart for that purpose only, and spent in prayer and fasting together. 4. That presbyteries be very cautious in admitting intrants to the ministry, and be accurate and exact in the trial, not only of their literature, but of their piety, prudence, and former godly conversation and walk. 5. That ministers be painful in catechising, frequent in visiting families, and in private personal con-

ference with those of their charge, about the state of their souls, and that ministers be more frequent in the administration of the Lord's supper, and always edifying in their converse and discourse, and that they deal with heads of families to engage them to piety, and a care to reform their families, and to set up and keep up the worship of God therein; and in particular, that ministers endeavour by all prudent and gaining gospel methods, to engage persons of honour and power to fall in love with holiness, and to reckon it, as indeed it is, their greatest honour; and that in dealing with such of them as are vicious, an humble, and yet holy boldness and zeal be used in admonishing them, in order to their recovery; and that herein presbyteries appoint some others of their number to concur with the minister of the place, as may be most for edification. 6. It is recommended, That kirk-sessions and presbyteries be vigorous, impartial, and yet prudent, in the exercise of church discipline, against all immorality, especially drunkenness and filthiness, cursing and swearing, and profaning the Lord's day, which too much abound; and that they apply to magistrates for executing the good laws against immorality and profaneness. 7. It is recommended to all ministers, where the people sit too long in taverns, especially on the Saturday's night, through which some neglect the public worship of the Lord's day in the forenoon, and others attend the worship drowsily, that they represent to the people, both publicly and privately, the sin and evil thereof, and call them to redeem that time which they have free from business, and to employ it for converse with God about their soul's state, and in preparation for the Sabbath, which will yield more delight than all sensual pleasures can do; and all magistrates of burghs are exhorted to be assistant to ministers in inquiring into, and reforming such abuses. And sicklike, the foresaid Act 8, Ass. 1697, against profaneness is revived; and the overtures therein contained anent censuring such ministers and members of session as are negligent in pursuing scandals, is approved; and the punctual observance of the said acts and overtures, and obedience thereto, by all presby-

teries, ministers, elders, and sessions, as they are concerned in their several stations, is recommended and enacted.—*Act 7.*

1704. It is recommended to the commission, to appoint some of their number, with the clerk, to draw up an abstract of all the Acts of Assemblies against profaneness and immorality; both before and since the late revolution, which being revised by the commission, may be by them ordered to be printed, together with the abstract of the acts of parliament against profaneness, in a small volume; and each presbytery is enjoined, twice a-year at least, at diets appointed *in hunc effectum*, to read these, and to inquire at each minister what is done by them for execution thereof; and every synod is ordained to take a strict account of the diligence and faithfulness of presbyteries therein: And it is recommended to all presbyteries to think seriously what may be further needful for restraining of wickedness, and advancing of piety and the kingdom of Christ in the nation, and to send in their opinions concerning the same, to the immediate subsequent Assembly, who might take these into their serious consideration, and make this their chief and first work.—*Act 11.*

1706. All magistrates, ministers, and elders are seriously exhorted in their respective capacities, to hold hand to the execution of the laws against profaneness, according to the Act 11, Ass. 1697, and Act 7, Ass. 1699, made against profaneness; and particularly, it is recommended to ministers and kirk-sessions to apply to the civil magistrate in that matter, as the law allows and requires; and upon the inferior magistrate's neglect or refusal to put the laws against profaneness in execution, that the kirk-session, with concurrence of the presbytery, complain to the government for redress, according to law: And lastly, it is recommended to presbyteries, to inquire diligently at their privy censures and parochial visitations, how ministers and kirk-sessions have obeyed this recommendation.—*Act 15.*

1714. Queen Anne's proclamation against profaneness dated August 18, 1708, with the abbreviate of the laws

subjoined thereto ; as also, the Act 13, Ass. 1694, Act 11, Ass. 1697, Act 7, Ass. 1699, and Act 7, Ass. 1697, are appointed to be reprinted in a small volume, and a copy thereof sent to every parish and kirk-session, presbytery and synod in Scotland ; and the said proclamation and abbreviate are appointed to be read from the pulpits of all the churches in Scotland, on a certain day mentioned in the act, and thereafter, as often, and at such times as the several synods and presbyteries shall judge it needful and convenient ; and synods and presbyteries are ordained to record their diligence in this matter in their books.—*Act 5.*

1715. King George I.'s proclamation against profaneness, as also the abbreviate of the laws against immorality, are appointed to be read in all the churches on a certain day ; and Act 5, Ass. 1714, immediately above written ; as also Act 11, Ass. 1714, are renewed.—*Act 13.*

1722. Slackness and partiality in the exercise of discipline, and untenderness in the walk and conversation of the office-bearers of the church, being considered as contributing to the increase of vice and immorality, neglect of the ordinances of religion, and profanation of the Lord's day ; therefore ministers are exhorted and required to take heed to themselves and to their doctrine, and to be exemplary to their people in sobriety, righteousness and holiness, abstaining from all appearance of evil : And in like manner, elders and deacons are exhorted and required to be faithful in the discharge of their respective offices, tender and circumspect in their walk, and punctual in their attending upon ordinances, and strict in their observance of the Lord's day, and in regularly keeping up the worship of God in their families : And it is appointed, That the judicatories of the church take good heed, that none be admitted to, or continued in these offices, but such as are found qualified, and behave themselves as above required ; and kirk-sessions, presbyteries, and synods are appointed strictly and impartially to observe this and former acts of Assembly, relative to office-bearers in the church ; and presbyteries are appointed at their privy censures to inquire into the behaviour of their

members, and of all the elders and deacons in their bounds, with respect to the premises; and synods are appointed to inquire into the conduct of presbyteries; and both are required to record their diligence herein, that the same may be reported to the General Assembly by the visitors of synod-books.—*Act 9.*

1746. Appointed, That the abbreviate of the laws and acts of parliament against profaneness be reprinted, and copies thereof sent to ministers to be read from the pulpits of their respective churches.—*Act 9.*

Act 13, Ass. 1694 revived: And further appointed, That the abstract of the laws against profaneness and immorality be reprinted, and that all kirk-sessions provide themselves with copies thereof, and have meetings to consider the most proper methods for obtaining the execution of these laws; and that ministers frequently in their sermons persuade and direct christians in general to contribute their endeavours, and take the best methods to strengthen one another's hands in this important work; and that presbyteries and synods inquire, at their diet for privy censures, into the diligence of ministers and sessions in this matter.—*Act 13.*

## PROFESSORS OF THEOLOGY.

1641. That professors of divinity and ministers shall not, by their demission of, or cessation from, their charge, through age and inability, be put from enjoying their old maintenance and dignity.—*Act Sess. 5, July 30.*

1643. If professors of theology in universities be ministers, they may be chosen commissioners to General Assemblies, either by the presbytery as ministers, or by the university as professors of divinity.—*Act Sess. 3, Aug. 4.*

1645. That provincials diligently consider and try who within their bounds most probably may be fit for a profession in the schools, and report their names to the General Assembly, that such may be stirred up and encouraged by the General Assembly, to compose and frame their

studies, that they may be fitted for such places.—*Act Sess. ult, Feb. 13.*

1646. For keeping the universities pure, and provoking the professors of divinity to greater diligence, they are desired to present to the next Assembly their dictates of divinity, and the professors present to give intimation to the professors absent; but the determination of an overture proposing it as a constant and perpetual order, that each professor in the universities within this church and kingdom, bring with them, or send with the commissioners to the General Assembly, a perfect and well written copy of his dictates, to be revised by the General Assembly, or such as they shall appoint for that work, this year, is continued till the next Assembly.—*Sess. ult. June 18.*

### PSALMS.

1647. A commission is granted to some brethren, to examine the paraphrase of the psalms sent from England; to observe what they think needs to be amended, and set down their own essay for correcting thereof; and for that effect, it is recommended to them to make use of the travails of Rowallan, Mr. Zachary Boyd, or any others on that subject; but especially, our own paraphrase; and choose what they find best in any of these works; and likewise, to make use of the animadversions sent from presbyteries, and to report their labours to the commission of that Assembly; who, after revising thereof, shall send the same to provincial assemblies, to be transmitted to presbyteries, that by their further consideration, the matter may be fully prepared for the next Assembly; empowering them also to turn those psalms, which in the English paraphrase are turned to verses not agreeing with our common tunes, to verses agreeing thereto: And it is recommended to Mr. Zachary Boyd to translate the other scriptural songs in metre; and to report his travails also to the commission of that Assembly; that after their examination thereof they may send the same to the pres-

byteries, to be there considered, until the next General Assembly.—*Sess. 25, Aug. 29.*

1648. Row's paraphrase of the psalms, with the corrections thereof, given in by persons appointed by the preceding Assembly for that purpose, sent to presbyteries to be revised and sent, with their corrections, to the commission, who are to re-examine the animadversions of presbyteries, and prepare a report to the next Assembly: And two brethren appointed to revise Mr. Zachary Boyd's labours upon the other scripture songs, and to report to the commission; who, after examination, are to report to the next Assembly.—*Act Sess. 38, Aug. 10.*

1649. Some ministers are appointed to correct and examine the new paraphrase of the psalms in metre, with the corrections and animadversions thereupon, sent from several persons and presbyteries; and to report to the commission, who, after perusal and re-examination thereof, are authorized with full power to establish the paraphrase, and to publish and emit the same for public use.—*Act Sess. ult. Aug. 6.*

1694. It is recommended to all congregations and families who worship God in the Irish language, to make use therein of the paraphrase of the psalms in Irish metre, approved and emitted by the synod of Argyle, conform to the Act of the General Assembly 1690; and that where preaching and prayer are used in Irish, the singing of psalms, at the same diet, in a different language be forbore thereafter, as an incongruous way of worshipping God; as also, to make use of the translation of the shorter catechism of this church in Irish, bound with the said psalms in one volume, as an uniform mean of catechising the people.—*Act 20.*

1706. Recommended to the several presbyteries of this church to endeavour to promote the use of the scriptural songs in private families within their bounds, according to the recommendation of the late Assembly, and to facilitate the Assembly's work in preparing the said songs for public use; recommended to presbyteries to buy up the printed copies of the said songs, and compare them with the originals, and make further amendments thereon; and the

amendments already made thereon are ordained to be printed and transmitted.—*Act 4.*

1707. The revising of the scriptural songs is recommended to presbyteries, and they are desired to transmit their opinions respecting them to the next Assembly; and in the meantime a committee, nominated by the commission of last Assembly, for revising the same, is renewed.—*Act 16.*

1708. The commission is appointed to consider the printed version of the scriptural songs, with the remarks of presbyteries thereupon; and after examination thereof, they are empowered to conclude and establish that version, and to publish and emit it for the public use of the church, as was formerly done on the like occasion, when our version of the psalms was published, in the year 1649: And recommended to ministers and others to buy up for private use, in the meantime, the copies of them that are lying on the author's hands.—*Act 15.*

1713. Recommended to presbyteries to use endeavours to have such schoolmasters chosen as are capable of teaching the common tunes; and that the said schoolmasters not only pray with their scholars, but also sing a part of a psalm with them, at least once every day.—*Act 17.*

1745. The consideration of the pieces of sacred poetry entitled, "Translations and Paraphrases of several Passages of Scripture," is remitted to presbyteries, in order to their transmitting their observations to the next General Assembly; that they, or any subsequent Assembly, may give such orders about the whole affair as they shall judge for edification; and this resolution is appointed to be affixed to the impression.—*Act 6.*

1746. It is recommended to private families, That in their religious exercises, in singing the praises of God, they go on without the intermission of reading each line: And it is recommended to the schoolmasters in the several parishes, that they be careful to instruct the youth in singing the common tunes.—*Act 8.*



## PUBLIC ENEMIES.

1644. Presbyteries and synods *respectivè* are ordained to proceed against the principal actors in that rebellion in the north and south with the highest censures of the kirk, if they give not satisfaction by public repentance ; and when the sentence of excommunication should be pronounced, the said judicatories are discharged to relax any of them from the sentence without the advice of the General Assembly or commission, *nisi in extremis* ; to whom also the said presbyteries and synods are appointed to be answerable for their diligence in the premises as they shall be required : And recommended to parliament, to cause take such course, as the persons guilty may be exemplarily punished, according to the demerit and degree of their offence.—*Sess. 6, June 3.*

1646. It is appointed, That such as, after lawful trial shall be found to have been in actual rebellion, and to have carried charge with the rebels, to have accepted commissions for raising horse or foot to them, or have otherwise assisted them in manner mentioned in the act, shall humbly acknowledge their offence upon their knees, first before the presbytery, and thereafter before the congregation, upon a Sabbath, in some place before the pulpit ; and in the meantime be suspended from the Lord's supper : And in case they do not satisfy in manner foresaid, that they be processed with excommunication : And such as have been guilty of any of the gross degrees of compliance expressed in the act, shall acknowledge their offence publicly before the congregation, and be suspended from the communion, aye and while they do the same ; and that all persons in any ecclesiastic office, guilty of any of these degrees of compliance, be suspended from the office, and all exercise thereof, for such time as the quality of the offence, and the condition of the offenders, shall be found to deserve : And presbyteries are declared to have a latitude and liberty to aggregate the censures above specified according to the degrees and circumstances of the offences : And the same latitude and liberty is given to

the commissioners of the Assembly for public affairs; who have also power to try and censure the offenders in manner above expressed, and to take account of the diligence of presbyteries therein.—*Act Sess. 14, June 17.*

1647. That no person guilty of compliance, in the first class mentioned in the above act, be received into any ecclesiastical charge until the evidence of his repentance before the presbytery and congregation be reported to the synod to which he belongs, and to the General Assembly, and their consent obtained to his bearing office; and that any such person already received into the eldership of any particular congregation, be not admitted to be a member of any presbytery, synod, or General Assembly, until (upon evidence of his repentance) the consent and approbation of these judicatories *respective* be obtained.—*Act Sess. 27, Aug. ult.*

1649. That all those who joined in the unlawful engagement in war against England, and were censured by the commission of the General Assembly 1648, with suspension, from the renewing of the covenant, and from the ordinance of the Lord's supper, and withal, who do not, by their addresses to church judicatories, testify their dislike thereof, be processed, and continuing obstinate be excommunicated; but if, withal, they go on in promoting malignant designs, that they forthwith be excommunicated.—See this at large in *Act Sess. 19, July 20.*

1746. Appointed, That presbyteries inquire into the behaviour of the office-bearers in the church during the late unnatural rebellion (1745), and prosecute offenders; and, in case of difficulty, to take the advice of the synod of the bounds, or the commission of the General Assembly: And recommended to ministers and presbyteries to call before them all others that may have been guilty as aforesaid, and to censure them according to the degree of their offence, and as they judge for edification.—*Act 10.*

## PUBLIC MONEY.

1642. It is recommended to his majesty's commissioner

to request his majesty that he would command that the signature of £500 sterling yearly, dedicated and gifted by him, to be bestowed on public, necessary, and pious use of the kirk, at the sight of the General Assembly, might be sent to this kingdom, and delivered to the commissioners of this Assembly, or the procurator for the kirk.—*Act Sess. 11, Aug. 5.*

1712. It is enacted, 1. That of her majesty's yearly allowance for defraying the public charges of the church's affairs, and paying the salaries of the church's public servants, there be always the sum of £100 sterling in reserve, for answering any extraordinary emergents in the church's affairs. 2. That no commission of any Assembly, in time coming, shall have power, and they are discharged to dispose of any more of the church's money, but of one year's allowance only, reckoning the commencement of the year from the 24th of June in the year preceding. 3. That each year's allowance be applied, in the first place, for defraying the stated annual charges of the church quarterly, and the necessary exigents of every particular year; that is, in such matters only, as during that time shall occur, which do immediately and directly concern the public interest of the whole church in general, and any arrears of these that shall happen to be resting; and, in the next place, for payment of the bygone debts of the church then resting; and the Assembly discharges any new orders to be given, or precepts to be drawn upon any other accounts, until all the church's debts be paid; but after payment of all prior debts, that which remains of each year's allowance, may be bestowed to such other uses of the church as shall be judged most proper. 4. It is declared, That no appointments on the procurator or agents for the church, to manage processes for particular synods, presbyteries, or ministers, shall, in time coming, warrant the agents to lay out any money therein, except there be a special order of Assembly, agreeable to the present rules, expressly appointing them to that effect. 5. £12 : 10s. quarterly, as the money comes in, is appointed to be lodged in the hands of one of the agents for the church, for defraying the said incident charges,

for which they are to make an account at each Assembly ; and if any balance shall be found due to them, the same shall be paid to them, and the sum of £12 : 10s. further : Or if the balance that shall be found due by them shall not extend to that sum, the said sum shall be made up to them out of the first money that comes in after clearing their accounts. And lastly, the receiver of the church's money, in debursing thereof, is appointed strictly to observe the foresaid rules; and he is discharged to make payments in any other manner or order, as he will be answerable to the Assembly.—*Act 7.*

1719. The Assembly discharges the applying of any of the church's public money toward the payment of the expenses of processes for stipends, except in parishes where popery abounds, or such as shall be recommended both by the presbytery and synod to which the parish belongs, and the case be laid before the Assembly, and their particular order given for that effect before the commencement of the process : And it is resolved and declared, That for thereafter, no new warrants or orders shall be granted for payment of any money to any person whatsoever, except to preachers sent to supply the north for their allowances. And the Assembly discharges the clerk of Assembly, or sub-clerk, to write out, or the moderator of that or subsequent Assemblies, to subscribe any orders or warrants for payment of any new grants out of the church's yearly allowance, until all former debts already contracted be first paid. And they resolve and declare, That at no time thereafter, any warrants for money shall be granted, until it be known there is as much in the hands of the receiver of the church's money as will be sufficient to answer the same. And they appoint the above Act 7, Asa. 1712, to be punctually observed ; and appoint the procurator for the church, when any demands for money come before the Assembly, or commission, to acquaint them with the state of their funds, and to read the foresaid Act 7, Ass. 1712, and this present act to them. And the committee chosen by each Assembly for auditing and revising the church's public accounts, are discharged to propose either the giving of money, or precepts for money, exceeding

that part of the year's allowance belonging to that Assembly which is free and unappropriated ; and they are appointed to bring their report first to the committee for overtures, before it be brought into the Assembly ; and they are also appointed to cause this present act, and any new regulations that shall be made about money, to be read to them yearly ; and to reject all petitions and demands not in the terms thereof ; and to report an account of any breaches that shall be made therein to the Assembly.—*Act 8.*

1723. Appointed, That not only no more orders upon the church's public money shall be granted by General Assemblies and commissions, until all the claims already stated be first paid ; but also, seeing that now the vacancies in the north, the Highlands and Islands, are for the most part planted, and that when any vacancies in these places shall happen, it will be more easy to get the same planted than formerly it was ; therefore Art. 5, Act 8, Ass. 1698, Art. 6, Act 11, Ass. 1699, and Act 5, Ass. 1715, are repealed and rescinded.—*Act 8.*

1761. Act 7, Ass. 1712, and Act 8, Ass. 1719, are ordered to be reprinted by *Act 5.*

1763. It is ordered, That all applications for a share of the public money in time coming, shall be transmitted to the agent for the church, with the grounds of the claims, on or before the 1st of May yearly, that the same may be laid before the procurator, who is appointed to give a short state of the case, and report the same, with his opinion thereon, to the next General Assembly, at their third sederunt ; with the certification that all petitions or applications for money, not lodged in terms of this act, shall not be received by that Assembly, but left in the agent's hands, to be considered and reported to the Assembly in the year thereafter. And it is recommended to all presbyteries, to pay the greatest attention to Act 8, Ass. 1719, which is ordered to be reprinted.—*Act 6.*

1810. Recommended, That a general contribution be made in aid of the funds of the church, in the several presbyteries, by the ministers and elders of the church ; and directed, that the sums received be remitted to the

moderators or clerks of presbyteries, to the procurator for the church, to be by him reported to the next Assembly.—*Act 10.*

1816. Recommended earnestly to the ministers of all the presbyteries of the church, the annual contribution of five shillings, suggested as the only remedy which occurs for relieving the funds of the church from their present difficulties: Enjoined, That printed copies of this recommendation be transmitted to all the moderators of presbyteries, accompanied with a letter from the moderator of the Assembly enforcing it; and presbyteries are enjoined to take up the consideration of the subject, not later than the day on which they meet to elect their members to the Assembly.—*Act 11.*

### QUAKERS.

1695. It is recommended to all provincial synods, presbyteries, ministers, and kirk-sessions, to use all proper means for the reclaiming of Quakers from their abominable heresies; and in case of their obstinacy, to proceed against them with the censures of the church; and especially against the ringleaders, that are traffickers for seducing others.—*Act 10.*

### REFERENCES.

1643. That Act Sess. 23, Aug. 30, Ass. 1639, anent appeals, be extended to references; and in appeals and references of particular concernment, if all the parties having interest, have been present in the inferior judicatory, when the appeal and reference was made, then there is no necessity of citation; but in case of their absence, citation of parties is so necessary, that if it be wanting, appeals and references should not be received.—*Aug. 8.*

1646. Recommended to presbyteries and provincial Assemblies, to consider all the matters referred by preceding Assemblies, to the consideration of presbyteries, and to report their opinion therein to the Assembly.—*Sess. ult. Jan. 18.*

1648. That presbyteries and provincial synods consider all references of this and preceding Assemblies, and send in their opinion in writing to the next General Assembly.—*Sess. ult. Aug. 12.*

1649. Recommended to presbyteries and provincial assemblies, to consider all matters referred by this, or by any former Assembly, and send in their opinions therein in writ to the next General Assembly.—*Sess. ult. Aug. 6.*

## REGISTERS OF THE CHURCH.

1638. The registers of the General Assemblies of the Church of Scotland, beginning December 1560, and ending in the year 1590, contained in five books, are approved by the Assembly, upon report of a committee appointed by them for trial thereof, and the reasons of their approbation are set down at length in Act Sess. 6, 7, Nov. 27, 28: the first beginning at the Assembly held 20th December 1560, and ending at the fourth session of the Assembly held 28th December 1566: the second beginning at the General Assembly held the 2d June 1567, and ending at the fourth session of the Assembly held at Perth the 9th August 1572: the third, being a register of the Assembly held at Edinburgh the 7th August 1574, and ending with the twelfth session, being the last session of the Assembly 1579: the fourth, beginning at the Assembly held at Edinburgh 10th May 1506, and ending seventeenth session of the Assembly held in March 1589: the fifth and greatest volume, beginning at the Assembly held anno 1560, and ending in the year 1590.

1639. An old register of Assembly, beginning at the Assembly held at Edinburgh 6th March 1572, and ending at the Assembly likewise held at Edinburgh in 1578, is approved, and ordained to make faith as an authentic register of the Kirk of Scotland, upon the testimony of a committee appointed for the revising thereof, which is subjoined to the *Act Sess. 18, Aug. 26.*

1700. All provincial synods and presbyteries are required to be careful in revising the registers of the judi-

catures under their immediate inspection, and that they appoint a competent number of the most fit and experienced ministers for that work, and when they find nothing to challenge in any register, they give the same the attestation following :—" The provincial synod of —, having heard the report of those appointed to revise the presbytery-book of —, and having heard the remarks thereupon, and the said presbytery's answers thereto : And it having been inquired by the moderator, if any other had any complaints to make against the actings of that presbytery, and nothing appearing censurable, ordered the clerk to attest this in their presbytery-book." And so for the registers of the provincial synods and kirk-sessions, *mutatis mutandis* ; but if there be any thing truly censurable in the said book, and in itself material, with respect to discipline, that it be recorded as censured, both in the synod-book and attestation.—*Act 9.*

1703. Enacted and appointed, 'That there be two authentic copies of the registers of the General Assemblies, committees and commissions thereof, both subscribed by the moderator and clerk, one copy whereof to lie in the clerk's custody, and the other copy to be sealed and laid in some secure place in the New Church of Edinburgh, or where the General Assembly or commission shall appoint : As also, 'That a subscribed extract of the proceedings of each General Assembly be sent, a little after the rising thereof, to the several synods within this church, to be by them recorded in a book, and all this to be done upon the public charges of the church ; and it is recommended to such persons as have any of the old registers or papers belonging to the General Assembly, commissions, or committees thereof, in their custody, to deliver up the same to the clerk of the General Assembly, to be by him kept for the public use of the church, and that ministers and presbyteries be at pains in dealing with persons for that effect ; and it is recommended to the commission to gratify those who shall bring to their clerk any of their papers or registers foresaid, as they shall find such persons deserve.—*Act 11.*

1704. The foresaid recommendation anent the registers



of the church is renewed, and the commission empowered to do according thereto.—*Act 27.*

1706. Recommended to all the judicatures of this church, to take special care that their registers be correctly written, and that they allow no blottings nor interlinings; and if any thing shall happen to be blotted out as superfluous, that it be marked on the margin, how many words or lines are blotted out, and that it was done by the authority of the judicatory, and that it be subscribed by the moderator and clerk; and if any thing be omitted, that it be written upon the margin, and subscribed by the clerk of the judicatory.—*Act 9.*

1712. Appointed, That a copy of the proceedings of every Assembly be sent to the library of each of the universities in Scotland, to be lodged there, and kept for the use of the church and judicatories thereof; and that the faculties of the several universities, upon receipt of these copies, send in to the commission of each General Assembly, an extract of the act of their faculty under their clerk's hand, acknowledging the receipt of the said copies, and that they are lodged in their libraries only in trust, for the use and behoof of the church, and obliging them to make them forthcoming to any of the judicatories of the church that calls for them, upon their receipt and obligation to return the same; and the Act 11, Ass. 1703, appointing copies to be sent to each synod, is repealed; but the clerk of the Assembly is allowed to give copies to such of the judicatories of this church as shall call for them, upon their own expenses.—*Act 14.*

1746. Recommended to, and kirk-sessions are appointed to have a register, in which they shall record the names of every person dying within their respective parishes, and interred in their ordinary burying places, and the times of their death.—*Act 12.*

1816. Recommended, That presbyteries take the steps necessary to secure the keeping of three separate registers in every parish; in one of which the names of all children and of their parents be recorded, with the dates of their birth; whether their parents belong to the church, or are dissenters; in another, the names of all persons married,

with the dates of their marriages, whether legally solemnised or not, with the specialties of any particular cases which may occur; and in the third, the names of all persons who have died, with the particular dates of their deaths, whether they have been buried in the parish burying ground or elsewhere; and that these three registers be brought up to the presbytery of the bounds at the first meeting after the conclusion of each year respectively, in each of which the presbytery shall enter their remarks on the manner in which it is kept, signed by the moderator for the time: A committee is appointed to communicate with the officers of the crown, in the view of obtaining the authority of the legislature to secure the faithful observance of this arrangement. Enjoined, that printed copies of the above recommendation be sent to all the presbyteries of the church, who are hereby required to communicate the same to all the kirk-sessions within bounds.—*Act 12.*

## REMEDIES OF CORRUPTIONS AND ENORMITIES.

1648. *Remedies Civil of Sins.* That every congregation make use of the 9th act of parliament 1645, at Perth, for having magistrates and justices in every congregation, and of the 8th act of said parliament, against swearing, drinking, mocking of piety, and all other acts of parliament for restraining or punishing of vice; particularly, for the better restraining the sin of whoredom, that each magistrate in every congregation exact and make count to the session of £40 for each fornicator and fornicatrix; of 100 merks for each one of their relapses in fornication; of £100 for each adulterer and adulteress, according to the express acts of parliament, which is to be exacted of those that may pay it; and the discretion of the magistrate is to modify it, according to the ability or inability of each delinquent.

*Remedies Domestic.* 1. That care be taken of the conscience receiving of servants, that they have testimonial

of their honest behaviour; and that all such as give testimonials, take heed that those to whom they give them be free of scolding, swearing, lying, or such like more common sins, as well as fornication, adultery, drunkenness, and other gross and heinous evils; that the ordinary time of giving testimonials be in the face of the session; and if any extraordinary exigent be, that it be given by the minister, with consent of the elder of the bounds wherein the person craving the testimonial hath resided; and if they have fallen or relapsed into scandalous sins, that their testimonial bear both their fall and their repentance. 2. That care be taken that the worship of God be practised, and discipline exercised in families, according to the directory for family worship in all things, as was appointed in the General Assembly 1647; especially in the master's constant catechising of the family, and in the performance of the duties of the Sabbath by all the members thereof. 3. That persons to be married, and who have children to be baptised, who are very rude and ignorant, be stirred up and exhorted as at all times, so especially at that time, to obtain some measure of christian knowledge in the grounds of religion, that they may give to the minister, before the elder of the bounds, an account of their knowledge, that so they may the better teach their family, and train up their children. 4. That every family that hath any in it that can read, have a bible and psalm-book, and make use of them; and where none can read, that they be stirred up to train up their children in reading, and use any other good remedy the minister and session can fall on.

*Remedies General Ecclesiastic.* 1. That the remedies which were given at Perth 1645, and are mentioned in Sess. 10, June 13, Ass. 1646, against the sins of ministers, be put in execution. 2. That suspension from the Lord's table be more carefully executed. 3. That persons relapse in adultery (or above), quadrilapse in fornication (or above), or often guilty of other gross scandals, be excommunicated somewhat more summarily than in an ordinary process, (except there be more than ordinary signs, and an eminent measure of repentance made known to the

session and presbytery), both for the heinousness of the sins and continuance therein, and for terror to others, and these not to be relaxed from the sentence of excommunication, without evidence and undeniable signs of repentance. 4. That impartial proceeding be used against men of all qualities for their scandalous walking, and in particular for drunkenness, swearing, and other scandalous sins; and this to be tried at the visitations of kirks.

*Remedies Particular Ecclesiastic.* 1. That ministers catechise one day every week, wherein also they may baptise and lecture, or preach; and that they preach every Lord's day, both before and after noon, according to the former acts of General Assemblies; that presbyteries and synods be very careful of this, and that every provincial book contain an exact account thereof. 2. That ministers examine all of every quality, of whose knowledge they have no certain notice. 3. That young persons be catechised by the minister, from the time they are capable of instruction, and that this be not delayed till they be of age to communicate. 4. That persons grossly ignorant be debarred from the communion; that for the first and second time they be debarred, suppressing their names; for the third time, expressing their names; for the fourth time, that they be brought to public repentance: All which is to be understood of them that profit nothing, and labour not for knowledge; but if they be profiting in any measure, or labouring that they may profit, their case is very considerable; they ought to have more forbearance.

*Remedies Ecclesiastic against Profaneness.* 1. That ignorant and scandalous persons be put off, and kept off kirk-sessions. 2. That every elder have a certain bounds assigned to him, that he may visit the same every month at least, and report to the session what scandals and abuses are therein. 3. That all scandalous persons be suspended from the Lord's supper. 4. That the minister deal in private with those who are professing public repentance before the elder of the bounds, thus to try the evidence of their repentance. 5. That those who have fallen in fornication make public profession of their repentance three several Sabbaths; who are guilty of relapse in for-

nication, six Sabbaths ; who are guilty of trilapse in fornication, or have once fallen in adultery, twenty-six Sabbaths ; and these sins to be confessed both in one habit, viz. sackcloth : Quadrilapse in fornication, and relapse in adultery, three quarters of a year ; incest or murder, a year or fifty-two Sabbaths, in case the magistrate do not his duty in punishing such crimes capitally : They that fall in fornication, or relapse therein, are first to confess their sin before the session, and thereafter before the congregation. They that are guilty of greater degrees of that sin, and of the other sins mentioned in this article, are to confess their sin both before the session and presbytery, there to shew some signs of repentance before they be brought to the congregation. 6. Some are to be rebuked at the time of catechising, who deserve more than a private reproof, and yet need not to be brought to public repentance. 7. It will be a good remedy against Sabbath-breaking by carriers and travellers, that the ministers where they dwell cause them to bring testimonials from the place where they rested on these Lord's days wherein they were from home. 8. That all persons who flit from one parish to another have sufficient testimonials : This is to be extended to all gentlemen and persons of quality, and their followers, who come to reside in Edinburgh or elsewhere ; and that the minister from whom they flit advertise the minister to whom they flit, if, to his knowledge, they be lying under any scandal. 9. That ministers be free with persons of quality, for amendment of their faults ; and (if need shall be) that they take help thereto of some of the presbytery. 10. That presbyteries take special notice of ministers who converse frequently and familiarly with malignants, and with scandalous and profane persons ; especially such as belong to other parishes. 11. That privy censures of presbyteries and synods be performed with more accuracy, diligence, and zeal. 12. For the better keeping of the Sabbath, That every elder take notice of such as are within his bounds, how they keep the kirk ; and how the time is spent before, betwixt, and after public worship. 13. That no minister resort to any excommunicated

patron, without license from the presbytery, *nisi in car-  
tramis*; and that ministers take special notice of such  
persons as haunt with excommunicants, and process them.

14. Frequent correspondence betwixt presbyteries is a  
good remedy. 15. That at the visitation of each congre-  
gation, the session-book be well visited; and, for that  
effect, that it be delivered to two or three brethren, seven  
or eight days before the visitation, that their report of it  
may be in readiness against the day of visitation.—*Act  
Sess. 22, Aug. 10.*

### REPRESENTATIVES IN ASSEMBLIES.

1638. Recommended to particular presbyteries, and  
especially to the ruling elders thereof, that they may take  
such course, whereby according to reason and former  
Acts of Assemblies, the commissioners' expenses to sub-  
sequent Assemblies may be borne by the particular pa-  
rishes of every presbytery, who send them in their name,  
and in their behalf, and to that effect, that all sorts of  
persons able in land or monies, may bear a proportional  
part of the burden, as they reap the benefit of their pains.  
—*Act Sess. 22, 24, Dec. 17, 18, Art. 10.*

1639. An overture that the act for furnishing expenses  
to commissioners sent by presbyteries to the General As-  
semblies, and sent in commission by General Assemblies,  
may be explained; and that it be declared, That the ex-  
penses of all such commissioners whatsoever, may be fur-  
nished by the kirks of the presbytery, according to the or-  
der set down in the last Assembly, since the errand is com-  
mon, and the benefit concerneth all; and that order may be  
taken, how that an expedient voluntary course, thought  
fit by the Assembly, shall, by advice of parliament, have  
the force of a law, for compelling those to pay who are  
stented, both for the last and for that and subsequent  
Assemblies; is allowed and referred to the parliament.—  
*Act Sess. 22, Aug. 29, Art. 3.*

1647. That every commissioner from presbyteries and  
universities, who shall be absent from the Assembly, with-

out a reasonable excuse notified to the Assembly, or, who being present shall go from the Assembly before the dissolving thereof, without license, shall be suspended by the Assembly, until the provincial synod next thereafter following.—*Act Sess. 27, Aug. ult.*

1648. Resolved in the meantime, until the matter concerning commissioners from burghs be further thought upon, that according to the ordinary practice, no commission to the General Assembly be admitted from burghs, but such as shall be consented to, and approved of by the ministry and session thereof; the persons elected being always elders.—*Act Sess. 4, July 15.*

The Act of the Assembly held at Burntisland 1661, ordaining, that in every Assembly to be convened in all time thereafter, such as should happen to be appointed commissioners from the General Assembly to endure while the Assembly next thereafter, should give an account of their proceedings during the whole time of their commission in the beginning of the Assembly, before any other cause or matter be handled, and their proceedings to be allowed, or disallowed, as the Assembly should think expedient; is revived by *Act Sess. 6, July 18.*

1694. That the representation of the several presbyteries of this national church, in its General Assemblies, shall hold proportion to the number of parishes in which there are, or ought to be settled ministers within each presbytery, as follows, viz. That all presbyteries consisting of twelve parishes, or under that number, shall send in two ministers and one ruling elder; and that all presbyteries consisting of eighteen parishes, or under that number, but above twelve, shall send in three ministers and one ruling elder; and that all presbyteries consisting of twenty-four parishes, or under that number, but above eighteen, shall send in four ministers and two ruling elders; and lastly, that all presbyteries consisting of above twenty-four parishes, shall send five ministers and two ruling elders, commissioners to the General Assembly. And it is declared, that collegiate kirks, where there use to be two or more ministers, are, so far as concerns the design of this act, understood to be as many

distinct parishes. And no persons are to be admitted members of Assemblies, but such as are either ministers or ruling elders.—*Act 5.*

1698. Appointed, That presbyteries choose their commissioners for the General Assembly a competent time before the sitting thereof, at least forty days, and that each General Assembly appoint a committee for censures, to cognosce upon the dates of commissions, and the attendance of those commissioned, to the end that such presbyteries as do not make their election in due time, as likewise such commissioners as do not attend duly from the beginning, and through the whole diets of the General Assembly, and the committees which they may be put upon, not having a relevant excuse, may be censured as the General Assembly shall think fit; and it is recommended to presbyteries to choose such ruling elders to be their commissioners, as may attend, and seriously to exhort them, when chosen, to make conscience of attending upon General Assemblies; and the punctual observance of Act 4, Ass. 1694, anent giving in commissions, and making up the rolls the night before the Assembly meet, or the next morning, is recommended; for which purpose the clerk is to attend in the Assembly-house at that time.—*Act 6.*

1709. All presbyteries are strictly enjoined to send their full representation to General Assemblies, and that they make choice of such as are able to attend, and who, they have reason to believe, will give due attendance; and the clerk of the Assembly is appointed to send the names of such commissioners as wholly absent themselves, to their several presbyteries and synods; and they are ordained to be censured for the first fault by their presbytery, and the censure to be recorded in the presbytery books; and for the second fault, by the synod, and the censure to be recorded in the synod books; and for the third fault, to be suspended by their respective synods, or presbyteries, conform to Act Sess. 27, Aug. ult. Ass. 1647. And in case of sickness, or other lawful excuse, the moderator of the presbytery is to be acquainted in due time, who is empowered to call a *pro re nata* meeting of presbytery,



to choose other fit persons in their room ; and if the excuse be sustained, what is offered in excuse is also to be recorded in their books, and the clerk of Assembly is ordained to send an account of such as withdraw from the Assembly, before the dissolution thereof, to their presbyteries, that they may admonish them therefor as they see cause.—*Act 7.*

1712. The Assembly, according to the design of Act 5, Ass. 1694, founding upon a proportion to be observed betwixt the number of ministerial charges in presbyteries, and the number of commissioners, declare and appoint, that each presbytery whose number doth exceed thirty ministerial charges, shall send to the Assembly six ministers and three ruling elders.—*Act 6.*

1718. It is resolved and appointed, That in all time thereafter, no commission from any presbytery, burgh, or university, to their representatives in the General Assemblies of this church, shall be sustained, but such as are in the terms of the acts of Assembly, made for regulating elections of members of Assembly, particularly Act 5, Ass. 1694, Act 6, Ass. 1698, and Act 6, Ass. 1704 ; all which acts are renewed ; and presbyteries are appointed, not only to elect their full number of commissioners, but also to be careful to choose such persons as probably can attend ; and presbyteries who send not up their full number of commissioners, and persons commissioned who either come not up, or are absent from any of the diets of Assembly, are appointed to be censured, unless relevant excuses from them be laid before, and admitted by the Assembly. And it is resolved and peremptorily enacted, That, in all time thereafter, no commission whatsoever for any ruling elder or elders, to sit as members of the Assemblies of this church, be sustained, but such as shall bear particularly that they have signed the *formula* prescribed by Act 11, Ass. 1694, unless the said elders do instantly subscribe it in presence of the Assembly, or a committee appointed by them, or do instruct that they have already subscribed the same ; and all commissions, after they are written out and extracted, and before they be put into the hands of the commis-

sioners, are appointed to be first read in presence of the presbytery, and to be revised by them, and that it be attested by the moderator or clerk of the presbytery upon the said commissions, that this was so done. And it is resolved and appointed (until the matter concerning commissions from burghs be farther thought upon), That, in the mean time, no commissions from royal burghs to their representatives in Assembly shall be sustained, but such as shall be consented to and approved of, not only by the ministry and kirk-sessions of the burgh, as is resolved by Act July 15, Ass. 1648, but also by the presbytery of the bounds within which the burgh lies; and upon which, it shall be attested both by the kirk-session and the presbytery aforesaid, that the person or persons therein named are elders lawfully ordained, and have signed the *formals* above mentioned; and likewise, that they are either residents in the burgh, or heritors in the burgh, or in the bounds of the presbytery where the burgh lies, or that they have formerly resided and officiated as elders in the said burgh or presbytery: And the General Assembly extended the time by Act 6, Ass. 1698, for choosing commissioners from presbyteries, to those that should be thereafter sent from royal burghs.—Act 9.

1723. Enacted and declared, That the right of election of a representative to the General Assembly from the university of Edinburgh, is only in the professors, principal, regents, masters, and others bearing office in that university, that is to say, the chancellor, rector, and dean of faculty, if any such there be, exclusive of all others; and the clerk of the Assembly is discharged, in all time coming, to receive any commission to any person, or to insert any person's name in the rolls of Assembly, as a representative from said university, in succeeding Assemblies, whose commission is given in otherwise than is appointed by this enactment.—Act 6.

1738. Enacted, That thereafter each presbytery of this church (excepting those in the northern or western isles) shall make their elections yearly, within a month preceding the first of the forty days mentioned in Act 6, Ass. 1698; and that every presbytery, at an ordinary

meeting, to be entered in their minutes, at least ten free days before such election; and that, on the day of election, the presbytery shall make their election between one and eight in the afternoon; and that burghs and universities, who send members to the Assembly, shall in like manner appoint the days of their elections, at their ordinary meeting of their council or university respectively, at least ten days before the day of such elections.—*Act 9.*

1751. Enacted and declared, That in time coming, none who are constituent members of the court shall act as counsel or procurators in any causes which come before the Assembly or commissions thereof.—*Act 4.*

Presbyteries are discharged from electing missionary ministers employed by the managers of the royal bounty for reformation in the Highlands and Islands, to be their commissioners to the General Assembly in all time coming.—*Act 4.*

1783. Act 4, Ass. 1751, anent counsel or procurators extended to solicitors and agents by *Act 8.*

1788. Appointed and declared, That in attesting commissions from royal burghs to their representatives in the General Assembly, the attestation of any one kirk-session within the electing burgh shall be held as competent and sufficient to all the purposes for which sessional attestations are required.—*Act 9.*

## RUNNING OF GOODS.

1719. All men are warned of the sin, evil, and danger of running uncustomed goods: And all ministers, especially in sea-trading towns and places, are strictly enjoined to represent to their people and hearers, the great impiety and monstrous wickedness of such methods, to gain this world to the endangering of their souls; and earnestly to obtest them, to abstain from such crying sins and deadly courses. And this act is ordained to be read once in all churches, and as often in particular parishes as the prudence of ministers shall direct.—*Act 9.*

1736. The above act is renewed; and the judicatories

of the church are enjoined to use their best endeavours, as there shall be occasion, to put a stop to perjuries in custom-houses, especially in the French wine trade, by the conscientious and impartial use of all the means appointed by the Lord Jesus Christ, against scandals of such an heinous nature.—*Act 15.*

1744. It is recommended to all ministers to discourage, as far as in them lies, by their discourses and example, the sinful and pernicious practice of smuggling; and appointed, That Act 9, Ass. 1719, and Act 15, Ass. 1736, be reprinted, and forthwith transmitted to presbyteries; and ordained, That the same be read from the pulpits of all the parish churches in Scotland.—*Act 7.*

### SCANDALS AND SCANDALOUS PERSONS.

1638. All presbyteries and provincial assemblies are ordained to convene before them such as are scandalous and malicious, and would not acknowledge that Assembly, nor acquiesce in the acts thereof; and to censure them, according to their malice and contempt, and acts of the kirk; and where presbyteries are refractory, power is granted to the several commissions, to summon them to compare before the next Assembly, to abide their trial and censure.—*Act 26, Dec.*

1642. That all presbyteries give up to the justices the names of the adulterers, incestuous persons, witches, and sorcerers, and others guilty of such gross and fearful sins within their bounds, that they may be processed and punished, according to the laws of the kingdom, and that the presbyteries and synods be careful herein, as they will answer to the General Assembly; and because witchcraft, charming, and such like, proceed many times from ignorance, and therefore all ministers, especially in those parts where these sins are frequent, be diligent in preaching, catechising, and conference, to inform their people therein.—*Overt. and Act Sess. 11, Aug. 5.*

1642. Synods and presbyteries are ordained to proceed diligently in process with the censures of the kirk, even to

the highest, against all persons who shall reproach or scandalize ministers, according as they shall find the degree and quality of the scandal deserves.—*Act Sess. 13, Aug. 6.*

1646. That all married persons under public scandal for fornication committed before marriage (although the scandal thereof has not appeared before marriage) do satisfy publicly for the sin committed before their marriage, their being in the state of marriage notwithstanding; and that in the same manner as if they were not married.—*Act Sess. 7, June 11.*

1700. Presbyteries are allowed, if they find cause, to send in to the General Assembly, or commission thereof, the names of scandalous persons of whatsoever quality, guilty of gross immoralities and contumacious to church discipline; with a full extract of the process, that they may proceed against them as they see cause.—*Act 15.*

1704. That the church proceed to the censures of excommunication against persons, who being challenged for scandal, do turn papists, or pretend to do so to evade censure, after all the due pains taken to reclaim them proves ineffectual.—*Act 8.*

1705. Ordained, That after persons, the grossness of whose scandals makes it necessary to bring them oftener than once before the congregation, are convicted before the session, that it be judicially declared to them that they have rendered themselves incapable of communion with the people of God in sealing ordinances; and that they be appointed to appear in public to be rebuked for their sin, conform to the institution, 1 Tim. v. 20. And it is referred to the respective judicatories of the church concerned to determine how oft such delinquents shall appear in public, as they shall find it tend most for edification: And it is ordained, That after a public rebuke, the minister and elders be at further pains, in instructing the minds of the scandalous persons, if ignorant, in endeavouring to convince their consciences, and to bring them to a due sense of their sin, and to an engagement and serious resolution against all known sin, and to the performance of all known duty; and that the session, upon satisfaction with their knowledge and sense of their sin, admit them to

the public profession of their repentance, in order to absolution: But if, after taking pains on them for some competent time, for their instruction and conviction, they still remain grossly ignorant, insensible, and unreformed, that the minister and elders advise with the presbytery of the bounds; and if the presbytery shall see cause, that then the sentence of lesser excommunication be publicly pronounced against them in the face of the congregation; from which they are not to be relaxed nor admitted to make public profession of their repentance in order thereto till the session be satisfied with their knowledge, seriousness, and reformation. And lastly, the names of such as are under the censure of the less excommunication are ordained to be publicly read out the Lord's day immediately preceding that upon which the sacrament of the Lord's supper is to be administered.—*Act 4.*

*Vide Form of Process, cap. 1, § 4, and caps. 2 and 3.*

*Vide Form of Process, cap. 6, p. 155, Vol. I. of Compend.*

## SCHISM.

1696. Mr. John Hepburn is suspended from the exercise of the ministry, and the sentence appointed to be intimated, as in *Act 27.*

1704. All presbyteries and synods are enjoined to censure all such persons within their bounds who carry on divisive courses, and that they vigorously use all suitable means for reclaiming misled people, and for the preventing the growth of schism; and that the commission of the General Assembly give their assistance in this good work to the several judicatures, as need shall require; and it is referred to the commission to cognosce in the complaints made against Mr. John M'Millan and Mr. John Hepburn, for their divisive courses, or to send a committee to the bounds of Dumfries and Galloway for both these affairs and visiting these bounds; which committee shall concur with the respective judicatories there, in cognoscing any schism or immorality that may have fallen out, and of error and in-

sufficiency in any that may be delated on that account.—*Act 18.*

1708. Mr. John Hepburn is deposed from the exercise of the holy ministry, and is discharged to exercise the same or any part thereof, in time coming, under the pain of the highest censures of the church for his irregular and divisive courses, mentioned in *Act 7*, Ass. 1705. *Nota.*—He was afterwards reponed by the commission of Assembly 1707, upon a reference to them of his case; but their procedure in that matter was found irregular, and excepted from the approbation of their books, by Ass. 1708.

All presbyteries and synods are strictly enjoined to take particular notice of their members, ministers, preachers, and others; and if they find them fall into irregularities or schismatical courses, that they call them to an account, and censure them according to the demerit of their fault, even to deposition of ministers and elders, and to apply to the commission for their advice, and report their diligence to the next Assembly. This act contains a particular reference to the commission of the disorders and schismatical courses of Mr. James Farquhar, minister at Tyrie, and Mr. John M'Neil, probationer.—*Act 6.*

1715. Referred to the commission to proceed to censure Messrs. John M'Millan, late minister at Balmaghie, John Taylor, late at Wamphray, John M'Neil, and John Adamson, pretended preachers; and Messrs. John Hepburn, at Ore, and John Gilchrist, at Dunscore, separatists from the church; or to apply to the civil magistrate against them: And the presbytery of Dumfries is ordained to proceed against Messrs. Hepburn and Gilchrist, or refer the matter to the commission: And the commission is instructed to apply to the civil government for suppressing the disorders of all of them, and punishing such as are guilty of solemnizing marriages clandestinely: And presbyteries are appointed to send informations of these things to the commission, that the same may be laid before government: And the several presbyteries and brethren in those counties where popery abounds, or where episcopal preachers intrude into parishes, churches, mansees or glebes, are appointed to send in to the Lord Justice-

Clerk, the Lord Advocate, or Solicitor, particular informations concerning the facts, parties' names, the circumstances of the transgression, such as time, place, &c. with lists of the witnesses' names and designations, that can prove the said facts.—*Act 15.*

1733. The disobedience of Messrs. James Wardlaw, Ralph Erskine, John Gibb, Daniel Hunter, John Geddes, and Thomas Mair, ministers in the presbytery of Dunfermline, to Act May 12, Ass. 1732, and several acts of the commission, appointing the said presbytery to enrol Mr. Robert Stark, minister of Kinross, as a member thereof, and their conduct and behaviour before the Assembly, are judged contrary to, and inconsistent with the subordination of judicatures established in the church, and the duty to the said judicatures, which they at their ordination engaged to perform; and therefore deserving the highest censures; yet they are only appointed to be sharply rebuked, and commanded to own Mr. Stark as minister of Kinross, to encourage and strengthen him in his work, and to discourage all separation from, and non-subjection to his ministry: And they are inhibited and discharged from admitting any of the parish of Kinross to sealing ordinances, without the consent of Mr. Stark, according to the act of Assembly 1645: And the members of the presbytery of Dunfermline are discharged from offering, admitting or receiving any protest or dissent against Mr. Stark's sitting and acting as a member of said presbytery, as minister of Kinross. And the commission is appointed to summon before them any who shall offer a protest or dissent, and the presbytery if they admit or receive the same; and censure such as they shall see cause; and they are enjoined to receive any complaint from the brethren of the presbytery of Dunfermline who have done their duty in obeying the appointment of the Assembly; and to judge and censure, as they shall see cause, ministers and others who shall give them disturbance or discouragement in their work.—*Act 5.*

Found that Mr. Ebenezer Erskine, in a sermon before the synod of Perth and Stirling, had vented indecent offensive expressions, tending to disquiet the peace of the



church; and he is appointed to be rebuked at the bar of the Assembly: But he, together with Messrs. William Wilson, Alexander Moncrieff, and James Fisher, gave in a protest, which is contained in the act, and craved that it might be read, and entered into the records of the Assembly. And it is ordained, That these four brethren appear before the commission, and shew their sorrow for their conduct; and the commission is appointed to suspend such of them as disobey, from the exercise of their ministry. And in case any act contrary to the sentence of suspension, it is appointed to proceed to a higher censure against such as continue to offend: And the several presbyteries of which these are members, are appointed to report to the commission their conduct with respect to this enactment.—*Act 7.*

1734. The synod of Perth and Stirling are empowered, upon proper application, to take the case of Messrs. Ebenezer Erskine, William Wilson, Alexander Moncrieff, and James Fisher, as it now stands, under their consideration, and to proceed and do therein as they shall find most expedient for promoting the peace, and preserving the authority of the church, and for uniting the four brethren to the church, and restoring them to their respective ministerial charges; but with express direction, that the synod shall not judge of the legality or formality of the proceedings of the church judicatories; or either approve of or censure the same.—*Act 8.*

1734. It being apprehended, that by Act 7, Ass. 1733, concerning Mr. Erskine and others, ministers are laid under greater restraints as to ministerial freedom than formerly, it is declared, That due and regular ministerial freedom is still left entire to all ministers, and the same is not any way impaired or restrained by the foresaid act.—*Act 9.*

1738. It is resolved, That although Messrs. Erskine, Wilson, Moncrieff, and Fisher, for seceding from the church might be censured according to the demerit of their fault; yet, that they still be treated with meekness and forbearance; and all ministers, especially those of the synods and presbyteries, within which they reside, are en-

joined to use their endeavours to reduce them to the communion of the church : And the commission is appointed to take into consideration any reports and representations concerning the behaviour of the seceding brethren : And it is recommended to all ministers and elders to endeavour, by all proper means, to reclaim those poor deluded people who have been carried away by this division, and to prevent the seduction of others, and the increase of this schism.—*Act 4.*

1739. It is declared, That Messrs. Erskines, Wilson, Moncrieff, Fisher, Mair, Nairn, and James Thomson, for offences found relevant and proven against them, merit deposition : But to give them a further time to return, and to render them altogether inexcusable if they should persist in their separation, it is thought fit to forbear inflicting the just censure upon them : but recommend it to the next General Assembly to execute the sentence of deposition upon such of them as do not, before that time, return to their duty. And that all schismatical courses may be prevented, it is ordained, That all synods and presbyteries strictly observe Act 6, Ass. 1708 ; and that all ministers exhort the people, both publicly and privately, to guard against divisive courses, and to “ keep the unity of the spirit in the bond of peace,” as they would consult the true interest of religion, and the quiet of their country.—*Act 4.*

1740. Messrs. Ebenezer Erskine, Ralph Erskine, William Wilson, Alexander Moncrieff, James Fisher, Thomas Mair, Thomas Nairn, and James Thomson, for offences found relevant and proven against them, are deposed from the office of the holy ministry, and all of them are prohibited and discharged from exercising the same in all time coming ; and it is declared, That all the parishes or charges of the above persons are vacant, from and after the day and date of this sentence : And it is ordered, That copies thereof be sent to the several presbyteries of Perth, Stirling, Dunkeld, Dunfermline, and Kirkcaldie ; and that these presbyteries send copies thereof to the kirk-sessions of the respective parishes hereby declared vacant, to be communicated to the elders,

And the commission is instructed to decide in any process that may come before them from any synod or presbytery, towards the speedy settlement of any of the churches declared vacant by this enactment.—*Act 4.*

1752. Messrs. Thomas Gillespie at Carnock, Robert Stark at Torryburn, David Hunter at Saline, Alexander Daling at Cliesh, Thomas Ferlie at Dunfermline, and John Spence at Orwel, refusing to obey the Assembly's appointment to admit Mr. Andrew Richardson, minister of Inverkeithing, it is resolved, That one of the six disobedient brethren shall be deposed. And Mr. Thomas Gillespie is deposed from the office of the holy ministry ; prohibited and discharged from executing the same, or any part thereof, in all time coming within this church ; and the church of Carnock is declared vacant. And it is remitted to the presbytery of Dunfermline to settle Mr. Andrew Richardson, minister of Inverkeithing, on or before the 18th day of June next. And ordered, That an exact list of the ministers who shall be present that day be made up, and entered into the minutes of the presbytery, with such excuses as shall be made by any of them who shall be absent ; and such of them as shall send no excuse, or whose excuse shall be rejected, are suspended from the exercise of their offices in all presbyteries, synods, and assemblies, until they testify their sorrow for their disobedience to the acts and ordinances of the General Assembly.—*Act. 4.*

### SCHOOLS.

1638. It is recommended to the several presbyteries to see to the settling of schools in every landward parish, and providing of men able for the charge of teaching youth, public reading, and precenting of the psalms, and catechising of the common people ; and that means be provided for their entertainment in the most convenient manner that may be had, according to the ability of the parish ; and the particular course is referred to the several presbyteries.—*Act Sess. 23, 24, Dec. 17, Art. 6.*

1642. It is appointed, 1. That every parish have a reader and a school, where children are to be bred in reading, writing, and grounds of religion, according to the laudable acts both of kirk and parliament made before ; and where grammar schools may be had, as in burghs, and other considerable places (among which all presbytery-seats are to be reputed), that they be erected and held hand to. 2. That every minister, with his elders, give account to the presbytery, at the visitation of the kirk, anent these schools ; that presbyteries make report to the synod, and the synod to the General Assembly, what schools are planted as above said, and how they are provided with men and means. 3. That the ministers of every parish instruct the commissioners to the next Assembly, that this course is begun betwixt and then, and that they further certify, from one General Assembly to another, whether this course be continued without omission, or not. 4. It is recommended to his majesty and parliament, to put in execution the means formerly appointed for schools of all sorts, and to find out further means for so good a use, especially, that children of poor men (being very capable of learning and of good genius) may be trained up according as the exigence and necessity of every place shall require. 5. That the parliament be supplicated to allot maintenance for youths of the finest and best spirits in the Highlands and Borders, as bursars, to be bred in universities. 6. That a committee be appointed to consider the time and manner of visitation of schools, and to contribute the best and most compendious and orderly course of teaching grammar, who may report their diligence to the Assembly.—*Act Sess. 11, Aug. 5.*

1699. It is recommended to the several presbyteries within this national church, to use their endeavours that schools be erected in every parish within their respective bounds, conform to the acts of parliament and General Assemblies ; and synods are ordained to make particular inquiry how this recommendation is observed.—*Act 10.*

1704. The Assembly declare themselves willing to concur for the planting and propagating of religion in the Highlands, as the matter and success shall open unto them ;

and in obedience to what is recommended to them in her majesty's letter, agree, that there be a contribution made, by way of subscription and otherwise, for erecting schools, and educating youth in the Highlands and Islands, where the same is not provided for already ; and the method of the said collections, and management of the money when collected, is set down : And application is appointed to be made to the parliament, privy council, and those in the government, for obtaining their authority to get the said schools erected, and obliging parents to put their children thereto, and for making the said design effectual. And it is recommended to synods and presbyteries in the Highlands, to send in to the commission an account of what parishes have or want schools, and the reasons of their wanting thereof ; and what places do most need, and are most convenient for erecting schools in ; and also to send in an account of such students as are hopeful, whom they would have supplied ; and this but prejudice of schools in every parish, appointed by act of parliament, and of the royal gifts in favours of the Highlands. And it is recommended to the commission to cause reprint and disperse the reasons and motives for carrying on the said design.—*Act 14.*

1705. It is appointed and ordained, That ministers take care to have schools erected in every parish, conform to the acts of parliament for the teaching of youth to read English, that the poor be taught upon charity, and that none be suffered to neglect the teaching of their children to read : And sicklike, that in no parish the minister recommend youth to be taught Latin upon charity in any grammar school, but after examining the said child or children, in presence of three or four members of the session, as to their promptitude and dexterity in reading, and competent skill in writing, as to their virtuous inclinations, and as to the hopefulness of their proficiency ; and that none be received into grammar schools to be taught Latin upon charity, but upon such recommendations ; and also, that each presbytery appoint a committee of their number yearly to examine the poor scholars in the grammar schools, and such within their bounds as go to colleges with an eye

to bursaries, and suffer none to proceed but such as are very forward and good proficient, and of good behaviour ; and that ministers recommend none to bursaries but such as are so qualified : And it is recommended to regents and masters of colleges, that no persons, especially bursars, be laureated but upon a clear evidence of sufficiency in their learning and good behaviour, after strict examination : And sicklike, it is recommended to masters in universities, and all other instructors of youth, that they be careful to instruct their scholars in the principles of the christian reformed religion, according to the Holy Scriptures, our Confession of Faith, or such books only as are entirely agreeable thereto. As also, it is recommended to professors of theology, that they take very particular notice of the piety and christian carriage of their students ; and that their testimonials to presbyteries, for entering men upon trials for the ministry, bear their knowledge of the persons recommended, as to their moral and pious carriage, as to their progress in their studies, their promising parts, and their good affection to the government of church and state ; and that he truly judges the person fit for the service of the church : And presbyteries are enjoined to receive none upon testimonials from professors, but who are so attested.—*Act 5.*

1707. It is appointed, That as to lands of her majesty's property, application be made by the commissions of Assemblies to the lords of treasury and exchequer, for her proportion of the legal allowance for schools ; and as to other heritors, presbyteries are appointed to use all suitable endeavours to get schools erected and maintained in parishes, conform to the acts of parliament ; and if that succeed not, to give an account of their diligence to the commission, who are empowered to assist them by application to the government, or otherwise competent : And as to wide and spacious parishes, that require more schools than one, *Act 14, Ass. 1704*, anent erecting schools in the Highlands, is renewed, and continued until altered by the Assembly, and the execution thereof recommended to presbyteries. And it is recommended to synods and presbyteries, to send in to the commission distinct accounts what

parishes in their bounds have or want schools, what are the reasons why they want the same, what places do most need them, what is the extent of those parishes that are spacious, and what are the places in each parish most convenient for fixing one or more schools in ; and that they send an account of the names of such students as are hopeful, and whom they could recommend for teaching those schools ; and the commission is ordained to put in order and record these accounts. And presbyteries are appointed to deal earnestly with the patrons of vacant parishes, to apply the vacant stipends to the above ends. And it is recommended to the commission, to give all encouragement to such as incline to enter into societies for erecting and maintaining schools, and to think on overtures for that purpose. And the commission is ordained to inquire what is become of the money collected in presbyteries for erecting schools in the Highlands, in pursuance of the foresaid Act 1704, and to use endeavours to make the same effectual : And presbyteries are ordered to report their diligence to the commission, and also to give particular accounts to the next Assembly, how former acts about schools in every parish, and visitations thereof, &c. are observed. And it is recommended to subsequent Assemblies, to appoint particular committees to receive reports of presbyteries in that matter, to be laid before succeeding Assemblies.—*Act 5.*

1758. It is appointed, That presbyteries inquire whether or not a parochial school be established in every parish in their bounds, and, where such schools are wanting, that they make application to the commissioners of supply for having parochial schools, with legal salaries, erected in every parish, as the law directs : And the procurator and agent for the church are appointed, at the public charge, to prosecute for having the laws respecting parochial schools put in execution.—*Act 6.*

## SCHOOLMASTERS.

1649. It is recommended to the parliament or committee for plantation of churches, That whatever either in parishes of burgh or landward was formerly given for maintenance of those who were readers, precentors in congregations, and teachers of schools before the establishing of the directory for public worship, may not be, in whole or in part, alienated or taken away, but be reserved for the maintenance of sufficient schoolmasters and precentors, who are to be approven by the presbytery ; and presbyteries are required to see that none of that maintenance given to the foresaid uses, or in use to be paid thereunto, before the establishing of the directory for worship, be drawn away from the church.—*Act Sess. ult. Aug. 6.*

1700. All presbyteries are appointed to take special, exact, and particular notice of all schoolmasters, chaplains, governors, and pedagogues of youth within their respective bounds, and oblige them to subscribe the Confession of Faith of this church, as the confession of their faith ; and, in case of continued negligence (after admonition), error, or immoralities, or of their teaching erroneous principles, or not being careful to educate those under their charge in the protestant reformed religion, that the presbytery, with respect to schoolmasters, apply to the civil magistrate in burghs, and heritors in landward, and with respect to governors, chaplains, and pedagogues, to masters, for removing such persons from these offices ; and if this be not remedied by them, that the presbytery, with respect to schoolmasters, apply to the commission of parliament for visitation of schools and colleges : And it is appointed, That an account be given in every half-year to the presbytery by ministers, what schoolmasters, chaplains, and governors are in their respective parishes : And it is recommended to masters of colleges to take care, and use their authority for the same ends, that the delinquents may be proceeded against by the respective presbyteries, and censured upon clear evidences of their guilt.—*Act 10.*



1706. It is recommended to such as have power of settling schoolmasters in parishes, to prefer thereto men who have passed their course at colleges and universities, and taken their degrees, before others who have not, *cæteris paribus*. And it is recommended to presbyteries to take special care that all the schoolmasters within their bounds, be such as have subscribed the Confession of Faith, and that presbyteries visit all the public grammar schools within their bounds, by some of their number appointed for that effect, at least twice every year; and also synods are appointed, at their privy censures, to inquire at presbyteries, how they have obeyed this recommendation: And it is recommended to the respective presbyteries in the Highlands, who are appointed to contribute for bursaries to be bestowed on students having the Irish language, that they pay the same punctually, conform to the act of the Assembly thereanent.—*Act 13.*

1749. It is recommended to presbyteries to take a watchful inspection of schools within their bounds, and of the character and behaviour of schoolmasters, and to take care that they be qualified, by taking the oaths to government, and that they instruct the youth in just principles of religion and loyalty.—*Act 4.*

1794. It is enjoined, That all parochial schoolmasters, and other teachers of schools within this church, cause the Holy Bible to be read as a regular exercise in their schools, by the children under their care. Also enjoined, That the Shorter Catechism be taught in all parochial and other schools: And that the children be required to commit the same to memory, and by frequent repetition to fix it deep in their minds. And appointed, That all ministers, from time to time, visit and examine the schools within their respective parishes, and take care that the teachers do their duty in those respects. And presbyteries are ordained to make inquiry concerning the obedience given by their several members to this act; and they are farther ordained, to appoint presbyterial visitation of the schools within their bounds, at least once every year, and exercise that authority which, by law, is vested in them for obtaining the important end in view. It is

moreover ordained, That a copy of this act be sent to every minister, and every parochial schoolmaster within the bounds of the church ; and that every presbytery report their diligence, in compliance with the terms thereof, upon the back of their commission to their representatives in the ensuing General Assembly.—*Act 9.*

1800. It is enjoined on all presbyteries of this church, That they be diligent in exercising those powers which the laws of the land and of the church have committed to them respecting the education of youth within their bounds ; and particularly, that they call before them all teachers of youth, whether in parochial schools or schools of another description, and take trial of their sufficiency and qualification in those branches of education which they profess to teach. And it is recommended to the procurator, to give his assistance in this matter to all presbyteries of the church ; and to carry on at the public expense such processes as may be necessary for enforcing the sentences, or ascertaining the powers of the church relative to schools ; and his majesty's advocate and solicitor-general are requested to concur with him in supporting her jurisdiction. And it is further enjoined, That presbyteries report to the Assembly a list of all the schools within their bounds, specifying what is taught in each school ; whether the schools be held on the Lord's day, or on other days of the week ; in what manner the schoolmasters are supported or maintained ; whether they act for themselves, or under the direction of others ; what number of scholars attend each school at the time of making the report ; and whatever else shall appear to the presbytery important, respecting schools within their bounds. And it is recommended to presbyteries to require all parochial schoolmasters to subscribe the Confession of Faith and *formula*, if they have not already done so, and to ask all teachers of youth, without exception, to produce to the presbytery attestations of their having taken the oaths to government ; and a particular report of their obedience is ordered to be made to the next Assembly. And it is enjoined on presbyteries to transmit, without delay, attested copies of their reports to the As-

sembly, to the sheriffs within whose jurisdiction they are situated.—*Act 11.*

1800. It is recommended to the several presbyteries, and especially to those who have not hitherto contributed, to promote a subscription among their members, in order to assist the funds of the church, in extinguishing a debt contracted in prosecuting the appeal in the cause relating to the schoolmaster of Bothwell.—*Act 12.*

1801. The order contained in Act 11, Ass. 1800, is renewed : And it is enjoined, That the presbyteries who have not obeyed the order, send up their reports ; and that those whose reports are not according to the terms of the order, supply the deficiencies of their former procedure, and report their obedience ; and it is recommended to the presbyteries whose reports are complete, to continue their attention to the important object ; and to report any new facts relative to teachers and schoolmasters, that may arise within their bounds during the ensuing year : All these reports to be transmitted to the next Assembly.—*Act 8.*

1817. The firmness and propriety of the presbytery of Brechin in asserting their indubitable right to examine schools of every description within their bounds, is approved of ; and recommended to the members of that, and of all presbyteries of this church, to continue their vigilance in attending to the different schools within their bounds. This judgment is ordered to be inserted among the printed Acts of Assembly.—*Act 5.*

### SIMONY.

1753. Presbyteries are enjoined to take all proper measures to discover if any minister or probationer has entered into any simoniacal paction or practice in order to obtain a presentation, or procure a call to a vacant parish, and to lay a representation of any such practice before the Assembly, that the procurator may prosecute for a reduction of any such bargain or obligation ; and it is de-

clared a just cause of deposition in a minister, or of taking away the license of a probationer.—*Act 5.*

1759. It is enjoined, in order to prevent simoniacal practices, That all presbyteries take all proper measures to discover if any such have happened in their bounds ; and if it shall be found that any minister or probationer, or by friends, have obliged themselves, before their settlement, not to commence any process against the heritors for augmentation of stipend, reparation of manse, office-houses, or enlarging his glebe, or become bound for any sum of money, to the patron, or others concerned, in order to procure a presentation, or to the heritors, or others concerned, to procure a concurrence, or a call ; or have entered into any simoniacal paction or practice to that effect ; that the presbytery represent the matter to the Assembly, that the procurator may be ordered to prosecute for a reduction of such bargains or obligations before the court of session : And it is declared a just cause of deposition in a minister, or taking away the license of a probationer ; and presbyteries are ordained to proceed to such sentences against all such ministers or probationers as shall hereafter be found to have entered into such bargains themselves previous to their settlements, or who shall afterwards homologate the deed of their friends : And it is enacted, That if any such simoniacal practices shall be carried on by any person whatsoever, to promote or procure any benefice or office in the church to any minister or probationer, though without his consent or approbation ; and if, when he comes to the knowledge of them, he shall not acquaint the presbytery of the bounds thereof, at their first meeting after getting such information, then and in that case, he shall, if a minister, be deposed, and if a probationer, be deprived of his license. And further, it is appointed, That this act be read by all presbyteries to every person before he be licensed to preach the gospel, and to every candidate for a settlement in their bounds before they take any steps towards his settlement.—*Act 8.*

1820. By an overture and interim act for the more

effectual preventing simony (re-transmitted), it is enacted, That upon a presentation being lodged with any presbytery of this church, before the presbytery shall take any steps towards the settlement of the presentee the moderator shall read to him Act 5, Assembly 1753, and Act 8, Assembly 1759, and thereafter the presentee shall subscribe, *coram*, the following solemn declaration, which declaration, as engrossed in the presbytery record, shall be authenticated by the signature of the moderator, in name and by appointment of the presbytery : “ I, A. B., presentee to the vacant parish and church of D., or appointed to be assistant and successor to E. F., minister of the parish of H., hereby solemnly declare, as I shall answer to God at the great day of judgment, that I have come under no engagement, expressed or understood, with the patron or heritors of the parish of D., nor with any person or persons in their name, or on their account, that neither by myself, nor by any person with my knowledge, has any thing been given or promised to procure me a presentation to the vacant parish of D., and, if at any time hereafter it shall come to my knowledge, that any thing has been given, or has been promised to be given to the patron, or to any other person, for procuring the presentation now laid on the presbytery’s table, to the vacant parish and church of D., I will immediately reveal it to the presbytery. (Signed) A. B., presentee to the parish of D.”—“ I. H. moderator, in name and by appointment of the presbytery ;” and that till such declaration is subscribed as above, the presbyteries of this church be prohibited from proceeding to the settlement of presentees, and that a copy of this act be given to each candidate for the ministry at the time he is licensed : All which procedure shall be without prejudice to the presbytery’s right of putting such questions to the presentee as they shall deem necessary on the circumstances of the case : And that in the mean time this overture be converted into an interim act.—Act 9, 27<sup>th</sup> May.

1821. Retransmitted.

## STIPENDS.

1647. Recommended, to the parliament, or commission for planting kirks, to provide ministers in manse and glebes, and remead the prejudice sustained by ministers in having their glebes divided into parcels, and by lying far from their charges.—*Sess. ult. Sept. 1.*

1702. Recommended to the commission of plantation of kirks, to give due dispatch and encouragement to all processes for modification and locality of stipends, that so ministers may have a suitable maintenance, and a competency for communion elements, and ready access thereto. And it is recommended to the several presbyteries, to send in an account to the clerk of the General Assembly, or agent for the kirk, of such parishes in their bounds as either want legal stipends, or want decreets for their stipends and communion elements; and to send therewith an account of the state of such parishes, and of the church, manse, and glebe thereof: And that in all transportations in time coming, previous inquiry be made, if there be a legal stipend, and a decret therefore, in the parish craving the transportation.—*Act 5.*

1706. Recommended to presbyteries, to give information to the commission anent mortifications and stipends that have been dilapidated or suppressed; and the commission is appointed to be assistant to ministers in recovering thereof.—*Act 12.*

1750. Resolved, That an humble application be made to the king and parliament for the following purposes, viz. That in raising a summons for modification, locality, and augmentation of stipend, it shall be sufficient that a general citation be made by every clerk from his desk, and letters written to absent heritors by the moderator of the presbytery; that the moderator of the presbytery pursue for an augmentation whether a parish be vacant or not; that ministers' stipends, if not paid within the year, shall bear interest from the first half-year after they become due; that the commission of teinds shall have power to suppress, to annex, and to alter the divisions of parishes:

And the Assembly's commissioners are instructed to pray for relief in the premises, and for such further relief as to his majesty and parliament shall seem meet.—*Act 4.*

*Note.* This application was put off by the then session of parliament, and seems never after to have been resumed.

1759. Enacted, That in all time coming no minister shall make any composition with his heritors, with respect to obtaining a decreet of modification and locality for his stipend, but at the sight of the presbytery of the bounds.—*Act 6.*

1760. This, by an overture, extended to manses.

1762. Enjoined, that presbyteries take an exact account on the place, of the extent of the stipend, glebe, grass, and other emoluments, belonging to every minister within their bounds, and record the same with accuracy in their presbytery-books. And it is appointed, That in case any person liable refuse or withhold any part of stipend, incumbents shall report the same to the presbytery, who are to give such directions for its recovery as the nature of the case may require; and that where a minister possesses more glebes than one, and has been in the use of setting such as are most remote, they shall, in time coming, after the boundaries are accurately ascertained, only be let by a tack, in which the extent and marches shall be particularly set forth, and the same lodged with the presbytery-clerk.—*Act 8.*

1802. Enjoined, that all the synods take care the presbyteries strictly obey the above Act 8, Ass. 1762, particularly respecting the extent and marches of glebes, and other emoluments as expressed in that act.—*Act 8.*

## STUDENTS OF DIVINITY.

1826. It is enacted, That, in future, all students of divinity shall give at least one year of regular attendance at the divinity hall; and that such year of regular attendance shall be the first, the second, or the third year of the course; the present law regulating the attendance remaining in other respects without alteration.—*Act 8, 27th May.*

1827. The General Assembly enact and ordain, That in all time coming, it shall be held and acted upon as a standing law of the church by all the presbyteries of this church, with respect to all students of divinity entering upon the said study, from and after this date, that, previously to the enrolment of any student as a student of divinity, he shall be examined by the presbytery within the bounds of which he resides, upon literature, science, and philosophy, particularly upon Greek and Latin; that when students shall not give regular attendance at the divinity hall, excepting for one year of their course, they shall, during the currency of the fourth year of that course, be examined by their respective presbyteries, upon their attainments in divinity, church history, Greek and Hebrew; and that, in both cases, they shall present to the professors of divinity under whom their studies are conducted, the certificates of examination granted by presbyteries.—*Act 7, 26th May.*

### SUPERSTITIOUS OBSERVANCES.

1638. Funeral sermons are discharged, as savouring of superstition.—*Sess. 23, 24, Dec. 17, 18, Art. 22.*

1640. That idolatrous monuments be taken down, demolished, and destroyed, with all convenient diligence; and the care of that work is committed to presbyteries and provincial assemblies within the kingdom; and that their commissioners report their diligence therein to the Assembly.—*Act Sess. 2, July 29.*

1645. That whatsoever person or persons, after the date of this act, should be found guilty of keeping of Yule day, and other superstitious days, be proceeded against by kirk censures, and shall make repentance therefore, in the face of the congregation where the offence is committed; and that presbyteries and provincial synods take particular notice how ministers try and censure delinquents of this kind within the several parishes; and scholars or students, being found guilty, be severely disciplined and chastised therefore by their master; and in case the mas-



ters of schools or colleges be accessory to the said superstitious profanity, by their connivance, granting of liberty of vacancy to their scholars, at that time, or any time thereafter in compensation thereof, that the masters be summoned by the minister of the place, to compear before the next ensuing General Assembly, there to be censured according to their trespass; and if scholars, being guilty, refuse to subject themselves to correction, or be fugitives from discipline, that they be not received into any other schools or colleges within Scotland.—*Act Sess. ult. Feb. 13.*

## SUPPLICATION.

1638. Resolved, That an humble supplication be directed to his majesty, testifying the Assembly's most hearty thankfulness for his royal favour, manifested in his public indiction of their solemn meeting, for purging and preserving religion, and informing him, from themselves, of their most religious and loyal designs in their proceedings, and entreating his majesty's approbation and ratification in the then ensuing parliament to their constitutions. This supplication is subjoined to *Act Sess. 26, Dec. 20.*

1639. The king is supplicated for his civil sanction and ratification of the constitutions in parliament.—*Act Aug. 30.*

1642. Supplication by the Assembly 1642, to King Charles I. craving that his majesty would advance the uniformity of church government betwixt the two kingdoms.—*Sess. 8, Aug. 3.*

1644. A petition or supplication from the distressed christians in Ireland to the General Assembly, shewing their having joined in the solemn league, and that the churches in Holland have supplied them with provisions in their straits; and begging that the Assembly would join with them in returning thanks to these churches; and would pass the bill, already advised by the committee of bills, for empowering the commission to grant them a

competent number of ministers, when they shall see their call cleared; and, in the meantime, renew their usual supply of ministers.—*Sess. 2, May 30.*

1645. Petition by the General Assembly 1645, to the parliament, entreating them to proceed with some speedy course of justice against such persons as were known to have joined themselves either actually in arms, or by their counsels, supplies, or encouragements, have strengthened the bloody enemies of the reformation, viz. the barbarous Irish, who have invaded the land, and treacherous countrymen, who have joined them; and to resolve upon, and put in execution, all lawful and possible ways of speedy and active pursuing and extirpating these barbarous and unnatural enemies within the kingdom.—*Sess. 14, Feb. 7.*

1648. Supplication by the General Assembly 1648, to the committee of estates, entreating them to take such course, as that the declaration and bond, of the date 10th June 1648, inserted *Sess. 18, July 28*, be no further pressed upon the people of God; that they would think upon an effectual remedy for punishing and redressing the violence and oppression of officers and soldiers in their quarterings, and otherwise; that they would take off the inhibition laid upon printers, whereby one of the kirk's privileges, confirmed by parliament, is restrained; and that they would seriously ponder the Assembly's declaration concerning present dangers and duties (inserted *Sess. 21, July ult. Ass. 1648*), then offered to them.—*Sess. 25, Aug. 2.*

Supplication by the General Assembly 1648, to the king, declaring their duty and loyalty to his majesty, wishing him a righteous and peaceable reign, faithfully warning him of his danger and duty, declaring their sympathy with him in his sufferings and low condition, and their abhorrence of what has been done to his person, and entreating him to see the righteous hand of the Lord in writing bitter things against him for all his provocations; especially, for resisting the work of reformation, and authorizing, by his commissions, the shedding of the blood of God's people, and exhorting him to repent, de-

claring their sense of the unlawfulness of the engagement, and beseeching his majesty not to own it, or have any hand in it, and entreating him to give his royal assent, for enjoining the league and covenant in all his dominions, and for securing religion, and to employ his royal power for advancing the kingdom of the Son of God.—*Sess. 40, Aug. 11.*

1649. Parliament is supplicated, that beside the settling of ministers' stipends, done by the act of parliament, abolishing patronages, the tithes mentioned in the act, may be affected with the burden of pious uses within the respective parishes; and for this effect, that the sitting of the commission for plantation of kirks be hastened.—*Act Sess. 23, July 24.*

1813. A petition from the General Assembly to both houses of parliament anent the political privileges of the Roman Catholics, wherein, declaring their anxiety for the preservation of religious toleration, and the removal of all ground of dissatisfaction at the eventful period, they trust, from the connexion of the Roman Catholics with a foreign pontiff, an enemy to our ecclesiastical constitution, and the peculiar nature, spirit, and tendency of their religion, that, should the legislature deem it necessary, from the exigency of the times, to make any change in the securities adopted at the revolution, that the utmost caution and prudence will be exercised that none of the bulwarks of the civil or ecclesiastical constitution be exposed to hazard; and effectual precautions be adopted to exclude foreign influence from the councils and administration of the state, and to maintain the land impregnable to foreign innovation, intrigue, and corruption; solemnly pledging themselves to discharge with fidelity and vigilance, the duties as office-bearers of the church of Scotland, and to cherish in the minds of their people the principles of religious liberty incorporated with the British constitution, and which are the glory of our land.—*Act 5.*

## SYNODS.

1638. The order of provincial assemblies or synods, as then given in by the most ancient of the ministry within every province, as the ancient platform thereof, ordained to be observed, conform to the roll registered in the books of Assembly.—*Sess. 23, 24, Dec. 17, 18, Art. 11.*

ROLL OF PROVINCIAL ASSEMBLIES AND PRESBYTERIES  
IN EACH PROVINCE.

*The Provincial Assemblies.*

1. *Of Merse and Tiviotdale*, containing the presbyteries of Dunse, Chirnside, Kelso, Earlston, Jedburgh, Melrose.—Within the bounds of Merse, Tiviotdale, the Forest, Lauderdale.

2. *Of Lothian*, containing the presbyteries of Dunbar, Haddington, Dalkeith, Edinburgh, Peebles, Linslithgow.—Bounds, East Lothian, Mid-Lothian, Tweeddale, West Lothian.

3. *Of Perth*, containing the presbyteries of Perth, Dunkeld, Stirling, Auchterarder, Dumblain.—Bounds, sheriffdom of Perth, Stirlingshire.

4. *Of Dumfries*, containing the presbyteries of Dumfries, Penpont, Lochmaben, Middlebee.—Bounds, Nithsdale, Annandale, Ewcsdale, Wauchopdale, and a part of Galloway.

5. *Of Galloway*, containing the presbyteries of Wigton, Kirkcudbright, Stranraer.—Bounds, sheriffdom of Wigton, stewartry of Kirkcudbright.

6. *Of Air or Irvine*, containing the presbyteries of Air, Irvine.—Bounds, sheriffdom of Air.

7. *Of Glasgow*, containing the presbyteries of Paisley, Glasgow, Lanark, Dumbarton, Hamilton.—Bounds, shire of Lennox, barony of Renfrew, shire of Cliddesdale, Over and Nether.

8. *Of Argyle*, containing the presbyteries of Dunmoor, Kinloch, Sky, Inverary, Kilmoir.—Bounds, sheriffdoms of Argyle and Bute, with a part of Lochaber.

9. *Of Fife*, containing the presbyteries of St. Andrews, Kirkaldie, Cupar, Dunfermling.—Bounds, sheriffdom of Fife.

10. *Of Angus and Mearns*, containing the presbyteries of Aberbrothick, Meigle, Dundee, Forfar, Brechin, Mearns.—Bounds, the sheriffdom of Forfar and Mearns.

11. *Of Aberdeen*, containing the presbyteries of Aberdeen, Kincardine, Alford, Deer, Ellon, Turreff, Fordyce.—Bounds, the sheriffdom of Banff and Aberdeen.

12. *Of Murray*, containing the presbyteries of Inverness, Forres, Elgin, Strathbogie, Abernethy, Aberlour.—Bounds, part of the sheriffdoms of Inverness, Nairn, Murray, Banff, and Aberdeen.

13. *Of Ross*, containing the presbyteries of Chanonrie, Tain, Dingwall.—Bounds, part of the sheriffdom of Inverness.

14. *Of Caithness*, containing the presbyteries of Dornoch, Wick, Thurso.—Bounds, Caithness, Sutherland.

15. *Of Orkney and Zetland*, containing the presbyteries of Kirkwall, Scalloway.—Bounds, the sheriffdom of Orkney and Zetland.

16. *Of the Isles*. All the kirks of north-west isles, viz. Sky, Lewis, and the rest of the isles, which were liable to the diocese of the isles, except the south-west isles, which are joined to the presbyteries of Argyle.

That such of these synodical assemblies as are nearest to others, have correspondence among themselves, by sending one or two commissioners mutually from one to another, as follows, viz. the provincial synods of Lothian and Merse, &c.; the provincial synods of Dumfries, Galloway, and Argyle; the provincials of Perth, Fife, and Angus, &c.; the provincials of Aberdeen and Murray; the provincials of Ross, Caithness, and Orkney; and the commissioners for correspondence amongst the synods to be a minister and ruling elder.—*Ib.*

1644. All presbyteries are discharged thereafter to make any nomination of persons to be moderators to their provincial synods; and synods are ordained, in their first meeting, to elect their moderators, and to make their own

lists for that effect, without tying themselves to these persons who have been named and designed in the particular presbyteries.—*Act Sess. 7, June 4.*

1646. Recommended to provincial assemblies, that thereafter they cause read all their acts before the dissolving of every Assembly; and that their registers be written formally, and in a good handwriting, with the several leaves and pages thereof marked by cyphers, according to their number.—*Act Sess. 4, June 6.*

1701. The synods of Lothian, Perth, Fife, and Aberdeen, are ordered to send correspondents to the synod of Angus and Mearns, until the Assembly should see cause to alter it.—*Act 7.*

1718. The above correspondence continued for one year, and is thenceforth to cease; and the foresaid four synods to be free of the burden thereof, unless, upon application of the said synod of Angus and Mearns to subsequent Assemblies, they should see cause to continue or renew the same.—*Act 6.*

## SYNOD BOOKS.

1642. That the clerk at least subscribe every synod book before it comes to the Assembly, and that every act be noted in the margin for a directory of expedition.—*Overt. and Act Sess. 11, Aug. 5.*

That the books of every provincial assembly be brought and produced to every General Assembly, and that every clerk to the provincials either bring or send their books yearly to the General Assemblies, by the commissioners sent to the Assemblies from those presbyteries where the clerks reside, aye and while some means be provided, whereby the clerks' charge may be sustained for coming with the said books themselves, and that under the pain of deprivation of the clerk in case of his neglect, and of such censures of the said commissioners, in case of their neglect, as the Assembly shall think convenient.—*Act Sess. 3, July 29.*

1698. Recommended to all synods to take care that

their registers be always completely filled up before the sitting of the General Assembly, and that the proceedings of every synod be signed both by the moderator and clerk thereof; and the synod books thus filled up and subscribed, are appointed to be timeously produced to the General Assembly yearly, in order to their being revised.—*Act 11.*

1702. All synod books are ordered in time coming, to be punctually brought in, and presented to the General Assembly yearly, in the beginning thereof, according to the ancient laudable custom.—*Act 3.*

1712. The several synods are appointed to make up a roll of all matters that have been, or shall be recommended by Assemblies to be inquired at presbyteries; and the said roll is ordered to be inserted in their register, and given in to the visitors of presbytery books; and the visitors are ordered to take notice of, and report the diligence of presbyteries in executing the acts and recommendations of Assembly: And agreed, that the Assembly shall make up a roll of all matters appointed to be inquired at synods; and every new act and recommendation, as soon as they are made, are ordained to be added to the said rolls, that the Assembly may know how their acts and recommendations are observed by the several synods and presbyteries.—*Act 11.*

1713. The following roll or list of matters is appointed to be put into the hands of the visitors of synod books, at each Assembly, for the direction and assistance of visiting the said books; and the visitors in going through the said books, are carefully to advert, 1. If the advices marked in the former attestations of the synod books be observed. 2. If the books be completely filled up, and signed by the moderator and clerk, as enjoined by Act 11, Ass. 1698, and be produced yearly, according to Act 3, Ass. 1702. 3. If the synod's proceedings be agreeable to the constitutions of this church, and Acts of Assembly; and if the register be correctly written and spelled, without contractions; and when there is any thing written on the margin, which should have been in the body, if it be signed by the clerk; and where words are blotted

out as superfluous, if it be marked on the margin, how many words or lines are blotted out, and that it was done by authority; and if the marginal note be signed by the moderator and clerk, and if there be any blottings or interlinings in the register; see Act 9, Ass. 1706. 4. If the synods call their presbyteries to an account as to their care about ministers reading and expounding a large portion of scripture in their congregations every Lord's day, according to Act 9, Ass. 1694, Act 5, Ass. 1704, and Act 10, Ass. 1706; and as to their preaching catechetical doctrine, according to Act 18, Ass. 1695. 5. If care be taken that the sacrament of the Lord's supper be administered in each parish, at least once every year, and where any ministers neglect the same, if they be called to an account, and if their excuses be either approved, or disapproved, as is enjoined by Act 11, Ass. 1706. 6. If synods inquire concerning presbyteries holding parochial visitations and ministers visiting of families, according to Act 16, Ass. 1706; the buying and reading of the acts and overtures of the General Assembly, according to Act 16, Ass. 1700, and Act 18, Ass. 1705; and concerning their diligence in observing the acts against profanity, particularly Act 7, Ass. 1699; and inquire after mortifications for pious uses, as is enjoined by Act 22, Ass. 1700. 7. If synods call their presbyteries to an account, as to the pains they take to get a school settled in every parish, and provided with a sufficient master and maintenance, according to law, and take care that the school be visited, conform to Act 5, Ass. 1705, and Act 5, Ass. 1707; and if presbyteries contribute for bursars having Irish, according to Act 13, Ass. 1706; and if the synod's advice be taken anent licensing probationers according to Act 10, Ass. 1711. 8. If synods inquire at presbyteries concerning the increase and decrease of popery, and other errors, and the pains taken to reclaim erroneous persons; see Act 8, Ass. 1707. 9. If synods take care to have the Acts of Assembly, particularly Act 5, Ass. 1712, concerning a contribution for promoting christian knowledge, observed; and if the account of their diligence in these matters be recorded, conform to Act 11, Ass. 1710. 10. If presby-



tery-books be punctually produced, revised, and attested, and if presbyteries undergo their privy censures every synod, and if there be a roll made up of matters recommended by the General Assembly to synods, and if the said roll be recorded, and a copy thereof given to the visitors, according to Act 11, Ass. 1712. 11. That the visitors of synod books communicate all their remarks on these books to some of the synod, and hear them thereupon, before they bring the same into the Assembly.—*Act 4.*

1723. Further ordered, That the visitors of synod books take notice, 1. If the acts of Assembly, concerning licensing probationers, be observed; particularly, That none be entered on trials till they have studied divinity the usual time, and produce ample testimonials, and the advice of the synod be taken, and the questions appointed by act of the General Assembly read to them before trials; and that none be entered thereon, until they have resided half-a-year immediately before within their bounds; and that the whole particulars in Act 5, Ass. 1705; Act 10, Ass. 1711, and Act 6, Ass. 1714, be punctually observed; and that all give satisfying answers to questions, and sign the *formula* contained in the said Act 10, Ass. 1711, and no other, according to Act 10, Ass. 1717, and that licenses bear the same. 2. If due care be taken for preserving purity of doctrine, according to Act 9, Ass. 1717, Act 5, Ass. 1720, Act 8, Ass. 1720, and Act 7, Ass. 1722. 3. If Act 7, Ass. 1714, for discouraging unworthy bursars, be observed; Act 7, Ass. 1715, for preferring students having Irish to bursaries. 4. That they take notice of the diligence of synods and presbyteries in observing Act 11, Ass. 1714, Act 13, Ass. 1715, Act 8, Ass. 1717, Act 4, Ass. 1719, and Act 7, Ass. 1720, for procuring the better execution of former acts against popery, and for preventing the growth thereof, by taking up yearly lists of their names and designations, and giving copies of the same to the justices of the peace, or other judges competent, and to the synod; and if diligence herein be recorded. 5. If all ruling elders have signed the *formula* contained in Act 10, Ass. 1694; and if presby-

teries at their privy censures inquire into the behaviour of their members ; and if all ruling elders and deacons in their bounds keep family-worship, and observe the other particulars in Act 9, Ass. 1722 ; and if deacons be ordained in every parish, as is appointed by Act 7, Ass. 1719. 6. That they remark the diligence of synods and presbyteries, with relation to reading the king's proclamations, and abbreviate of the acts of parliament and General Assembly against immorality, and giving suitable exhortations, according to Act 5, Ass. 1714. 7. If fasts and thanksgivings be observed, according to Act 7, Ass. 1710, Act 4, Ass. 1722. 8. How Act 4, Ass. 1819, concerning the settlement and provision of schools, and the encouragement of ministers in parishes where there are papists. 9. How Act 4, Ass. 1718, concerning a fund for maintaining the indigent widows and orphans of ministers, is observed.—*Act 5.*

1792. Recommended to synods to be punctual in sending up their books. Enjoined, That synod-clerks attend to this recommendation, as they shall be answerable for their conduct to the Assembly ; and ordained, That this recommendation and injunction be inserted amongst the printed acts of the Assembly.—*Act 7.*

### SYNODS MEETING.

1642. The provincial synod of Angus is ordained to keep their first meeting upon the third Tuesday of April, conform to the Act of Assembly at Glasgow 1638.—*Act Sess. 13, Aug. 6.*

1643. Appointed, That the ordinary fixed places of meeting of the synod of Perth and Stirling, be in all time coming at Perth in October, and Stirling in April yearly, *per vices.*—*Act 8.*

1647. Declared and ordained, That the whole ministers and elders of the presbytery of Zetland (Shetland) shall not be tied, after the date of the act, to come to the meetings of the provincial of Caithness ; but that the half only of the number of the ministers of that isle, with their

ruling elders, shall be obliged to keep the meetings of the said provincial assembly in time coming ; in respect of the great distance of that isle from the land, and the uncertainty and dangerousness of the passage from and to the same.—*Act Sess. 2, Aug. 16.*

1752. Appointed, on account of the change in the kalendar, That the synods which usually met on the first Tuesday of April, or October, shall meet on the second Tuesday of these months according to the new style ; and so of the rest, advancing a week in the denomination of the days, whatever month or week any of the synods have been in use to meet in.—*Act 8.*

1759. The act appointing the synod of Ross to meet twice in the year, viz. in the months of April and September, is repealed ; and it is appointed, That in time coming that synod meet once in the year, and that on the second Tuesday of May yearly.—*Act 4.*

1759. Appointed, That in summer the synod of Lothian and Tweeddale shall in time coming meet on the first Tuesday of May.—*Act 5.*

1761. Appointed, That the synod of Ross, have their meetings henceforth upon the third Tuesday of April.—*Act 9.*

1776. The place for the meeting of the synod of Galloway is changed from Wigton to Newton-Stewart ; to be held there in all time coming, allowing the synod to adjourn occasionally to Kirkcudbright, Wigton, Stranraer, or elsewhere.—*Act 11.*

1777. Ordered, That the day for the meeting of the synod of Fife, be changed from the first to the second Tuesday of October yearly.—*Act 8.*

1811. Appointed, That the synod of Glenelg hold their first ordinary meeting at Broadford, on the third Wednesday of July ; and their next ordinary meeting at Lochcarron, and to continue in future alternately at these places, upon the third Wednesday of July.—*Act 7.*

## THANKSGIVINGS.

1708. A solemn thanksgiving is appointed for the nation's deliverance from the Pretender by *Act 7*, of this Assembly.

1710. All ministers and members of this church are appointed religiously to observe all fasts and thanksgivings, whether appointed by the church, or the supreme magistrates, for just and necessary causes: And presbyteries and synods are appointed to take particular notice of the due observance of this.—*Act 7*.

1746. A solemn thanksgiving is appointed for the deliverance of the nation from the distress occasioned by the rebellion, by *Act 14*.

1788. Recommended to all ministers, to take such methods as shall appear to them most effectual to fix the attention of all ranks upon the lessons of contrition, of thankfulness and liberality, which then the dispensations of providence, and the seasonable supply of provisions especially taught: This recommendation is appointed to be transmitted to presbyteries as soon as possible.—*Act 7*.

1788. A national thanksgiving is appointed in commemoration of the Revolution in 1688.—*Act 10*.

## TRANSPORTATION.

1642. It is appointed, 1. That no transportation be granted without citation of parties having interest, viz. the minister who is sought, and his parish, to hear what they can oppose; and the matter is to come first to both the presbyteries; viz. that wherein the minister dwells, whose transportation is sought; and the other presbytery to which he is sought; if the kirks lie in several presbyteries, and if the presbyteries agree not, the matter is to be brought to the synod or General Assembly, which of them shall first occur after the said transportation is sought; and if the synod occurring first agree not, or if there be

an appeal made from it, then the matter is to come to the General Assembly. 2. That a minister may be transplanted from a particular congregation where he can only do good to a part, to such a place where he may benefit the whole kirk of Scotland, because in reason the whole is to be preferred to a part, such as Edinburgh, *1mo*, Because all the great courts of justice sit there; as council, session, justice-general, exchequer, and it concerns the whole kirk that these fountains of justice be kept clean, both in point of faith and manners. *2do*, Because there is a great confluence to Edinburgh from time to time, of many of the chief members of the whole kingdom, and it concerns the whole kirk to have these well seasoned, who apparently are to be the instruments of keeping this kirk and kingdom in good temper. That this may the more easily be done, it is recommended to Edinburgh, That some young men of excellent spirits be, upon the charges of the town, trained up at home or abroad, toward the ministry from time to time: And it is declared, That the assembly mean not that all the places of the ministers of Edinburgh be filled with ministers to be transported by authority of this act, but only till they be provided with one minister, transplanted by the authority of the Assembly for every kirk in Edinburgh, and that the rest of the places be filled up, either according to the general rules of transportation for the whole kingdom, or by agreement with the actual ministers and their parishes, with consent of the presbytery or synod to which they belong. 3. It is found, That it is a transporting of ministers for public good, that colleges having the profession of divinity be well provided with professors; wherein the college of divinity in St. Andrews is first to be served, without taking any ministers or professors out of Edinburgh, Glasgow, or Aberdeen, and then the rest of the colleges are to be provided ~~as~~ their necessity shall require; yet, in respect of the present scarcity, it were good for the universities, to send abroad for able and approved men to be professors of divinity, that our ministers may be kept in their pastoral charges, as much as may be; towns also, wherein colleges are, are very considerable in the matter of trans-

portation. 4. All congregations where noblemen have their chief residence are to be regarded, whether planted or unplanted, and a care is to be had, that none be admitted minister where popish noblemen reside, but such as are able men, especially for controversy, by sight of the presbytery: And moreover, it is necessary, That such ministers as dwell where popish noblemen are, and are not able for controversy, be transported. 5. They who desire the transportation of a minister, should be obliged to give reasons for their desire; neither shall any presbytery or Assembly pass a sentence for transportation of any minister, till they give reasons for the expediency of the same, both to him and his congregation, and to the presbytery whereof he is a member; if they acquiesce in the reasons given, it is so much the better; if they do not acquiesce yet the presbytery or Assembly, by giving such reasons before the passing of the sentence, shall make it manifest, that what they do is not *pro arbitrato vel imperio* only, but upon grounds of reason. 6. Because there is such scarcity of ministers having the Irish tongue, necessity requires, That when found in the Lowlands, they be transported to the Highlands, providing their condition be not made worse, but rather better by their transportation. 7. In point of voluntary transportation, that no minister transact or agree with any parish to be transported thereto, without a full hearing of him, and his parish, before the presbytery to which he belongs in his present charge, or superior church judicatories, if need shall be. 8. The planting of vacant kirks is not to be tied to any, either minister or expectants, within a presbytery, but a free election is to be, according to the order of the kirk, and laws of the kingdom. 9. That the chief burghs of the kingdom be desired to train up young men of excellent spirits for the ministry, according to their power, as was recommended to Edinburgh; which course will in time, God willing, prevent many transportations.—*Act Sess. 11, Aug. 5.*

1694. It is recommended to all parishes, who are or may be vacant, That before they design the calling of any minister already fixed in another congregation, they first seri-

ously essay and follow other means of providing themselves, if they can be found ; and it is recommended to all presbyteries, That they do not concur in any such call, or design of transporting a minister from one congregation to another, unless by due comparing of places, and all parties concerned, the disproportion betwixt them and the greater good of the church be manifestly evident. And sicklike, when any such design of transportation is pursued, the Assembly ordains, That all parties concerned therein shall debate with such meekness and brotherly kindness as becometh parts and members of the same body of Christ, designing the good of the whole ; and that they represent their reasons and answers with due perspicuity and all possible brevity ; and that they do not needlessly expatiate on things that concern not the true merits of the cause ; and the Assembly prohibits all lengthening of debates by replies and duplies, unless the judicatory before whom the debate lies, find it necessary for clearing some matter of fact, or because of some new matter that hath occurred, which could not be considered before. And to prevent unnecessary and contentious appeals in such matters, it is declared and ordained, That if both the competing parishes be within the bounds of the same presbytery, in that case, the decision and sentence of the presbytery shall take effect, and be obeyed ; or if the parishes be in different presbyteries, but both presbyteries be within the same synod, in that case the decision and sentence of the synod shall also take effect, and be obeyed ; yet always allowing liberty to any person or parish, who think themselves grieved, to appeal to superior judicatories, to have redress by taking off the sentence, and censuring the respective judicatory complained of, if they be found to have malversed ; but with this certification, that if any be found unnecessarily to pursue appeals and complaints, they shall be severely censured therefore.—*Act 6.*

1704. To prevent the rabbling of messengers by the people, and horrid profanation of the Lord's day, which frequently falls out in cases of transportation when the defending parties or parish are to be summoned, it is appointed and ordained, That the minister himself being

summoned *apud acta* at the presbytery, or, if absent, by the presbytery's letter, to be present at the day appointed for hearing the cause; he also be ordered to intimate out of the pulpit to the heritors, elders, and others concerned in the parish, that there is such a call, and such a transportation designed; and if any of them have a mind to defend their right to their minister, they are to be present at the presbytery on such a day, and ready to make their defences; for which cause, the Assembly ordains the call, with the reasons thereof, to be given or transmitted to the minister, to be by him communicated to them; and appoints this method of citation in cases of transportations to be observed only where the presbyteries concerned shall see cause to take that course; in which case the citation so given is declared to be a valid citation; but that it shall be optional to the presbytery to follow this course, or do it by officials as formerly.—*Act 7.*

### UNCLEANNES.

*Vide* Form of Process, cap. 4, p. 148, Vol. I.

1715. The presbytery of Kirkaldy is ordered to proceed against Mr. Colin Mackenzie of Rosend, for the sin of uncleanness, according to the rules of the church, notwithstanding of any thing that some prelatical preachers had done or might do in the affair; and the said prelatical preachers are discharged to proceed any further in that matter, as they will be answerable. And remitted to the commission to take care that the Assembly's authority be not contemned in this case: And this method is appointed to be observed in cases of scandal, when any others, either episcopal preachers, or such as pretend to be presbyterians, but separate from this church, take upon them to exercise discipline.—*Act 14.*

### UNITY IN RELIGION.

1630. That no novations, which may disturb the peace of the church, and make division, be suddenly proposed



and enacted; but so as the motion be first communicated to the several synods, presbyteries, and kirks, that the matter may be approved by all at home, and commissioners may come well prepared unanimously to conclude a solid deliberation upon these points in the General Assembly.—*Act Sess. 23, Aug. 30.*

1641. That according to the aforesaid act of Assembly at Edinburgh, and that at Aberdeen 1640, no novation in doctrine, worship, or government, be brought in or practised in this kirk, unless it first be propounded, examined, and allowed in the General Assembly, and that the transgressors in this kind be censured by presbyteries and synods.—*Act. Sess. 14, Aug. 6.*

1642. The moderator and commissioners of the Assembly are enjoined, with all earnestness and respect, to supplicate the lords of council and conservators of the peace, that they may concur with the kirk, in desiring his majesty and the parliament of England, and the commissioners of Scotland at London for the time, by all possible means, civil and ecclesiastical, to advance the blessed work of unity in religion, and uniformity of kirk-government betwixt the kingdoms; and to endeavour a happy settlement betwixt his majesty and his parliament, and that the common peace betwixt the kingdoms may be continued and strengthened.—*Act Sess. 11, Aug. 5.*

1695. The acts of former Assemblies made anent innovations in doctrine, worship, or government, are revived, especially *Acts Aug. 30, Ass. 1639, and Aug. 6, Ass. 1641, Act 11.*

1707. The Assembly discharges the practice of innovation in divine worship within the church, and requires and obtests all the ministers of this church, especially those in whose bounds such innovations are, or may be, to represent to their people the evil thereof, and seriously to exhort them to beware of them; and to deal with all such as practise the same, in order to their recovery and reformation; and enjoins the commission to use all proper means, by applying to the government, or otherwise, for suppressing and removing all such innovations,

and preventing the evils and damages that may ensue thereupon to the church.—*Act 15.*

1713. All ministers and people are charged to abstain from all divisive courses, upon occasion of different sentiments and practices about the oath of abjuration ; and that they would, notwithstanding thereof, live in love and christian communion together, and strengthen one another's hands in their work, and use all prudent and gaining methods to keep the people in due subjection and love to their own pastors.—*Act 6.*

1714. The exhortations contained in the foresaid Act 6, Ass. 1713, are renewed ; and all ministers and people are seriously obtested to lay to heart the important duties therein recommended, and that there be no distinguishing course taken, contrary thereto, on the occasion of celebrating the holy sacrament of the Lord's supper, which ought to be the bond of love and unity among christians. And a committee is appointed to consider any representations that might be offered to them concerning brethren that may follow divisive courses, and to deal with them in order to remove their scruples, and to reclaim them to their duty, and to report their diligence to the commission ; who are empowered, from time to time, to give the committee instructions and directions in their procedure, and to cognosce and determine in this affair.—*Act 8.*

1715. All are exhorted to avoid irregular and disorderly practices ; and all the ministers of this church are obtested, carefully to guard against the distinguishing course taken by some in the choice of their assistants, at the celebration of the sacrament of the Lord's supper.—*Act 6.*

1735. It is recommended to ministers and others, That they do what they can to prevent and suppress the growth of deism, infidelity, popery, and other gross errors ; and in order thereto, it is recommended to all ministers to maintain, as far as in them lies, brotherly love, peace, and unity amongst themselves, and amongst the people under their charge ; and in all their more public appear-

ances to avoid uncharitable reflections, and all just grounds of irritation tending to engender strife more than to promote edification.—*Act 7.*

## UNIVERSITIES.

1641. It is recommended to the parliament, 1. That, out of the rents of the prelaties, collegiate or chapter-kirks, or sicklike, a sufficient maintenance be provided for a competent number of professors, teachers, or bursars in all faculties, and especially in divinity; and for upholding, repairing, and enlarging the fabric of the colleges, furnishing of libraries, and sicklike good uses, in every university and college. 2. That there be a meeting, once every year, at such times and places as shall be agreed upon, of commissioners from every university and college, to consult and determine upon their common affairs, and whatsoever may concern them; and who may represent what is needful therein to the parliament and General Assembly. 3. That special care be had, that the places of the professors, especially professors of divinity in every university and college, be filled with the ablest men, and best affected to the reformation and order of this kirk.—*Sess. 9, Aug. 3.*

1646. It is recommended to all the universities, to condescend upon the best overtures for the most profitable teaching of grammar and philosophy, and report to the Assembly.—*Sess. ult. June 18, Art. 3.*

1647. It is recommended to all universities, 1. To be careful to take account of all the scholars on the Sabbath-day, of the sermons, and of their lessons of the catechism. 2. To send their commissioners, instructed with answers to the overtures agreed upon by the commissioners of universities, and that against their commissioners come, in February or March, to the commission of the kirk.—*Sess. 28, Aug. ult.*

1707. It is recommended to the commissioners, directed from the several universities, to subsequent Assemblies, to meet together, and prepare overtures to the Assembly,

for the establishment and advancement of piety and learning, and good order in the schools and universities, and to keep a correspondence amongst themselves for these good ends.—*Act 6.*

1711. It is recommended to the several presbyteries, in whose bounds colleges or universities are, to take particular care, That all the masters thereof do acknowledge, profess, and subscribe, in manner appointed by act of parliament 1707, 6, entitled, “ Act for securing the protestant religion and presbyterian church government.” And to take special notice of what is taught in colleges and universities; and that nothing be taught therein contrary to, or inconsistent with the confession of faith of this church, or to the worship, discipline, or government of the same; and to observe the morals and conversation both of masters and scholars; and that they apply first to the faculties of the universities or colleges for redress; and in case any difficulties occur to the presbyteries, which they cannot overcome, they are appointed to lay the same before the synod, General Assembly, or commission thereof; who are to consider the representations, and give their advice and assistance in these things.—*Act 14.*

1719. The commission is instructed, carefully to advert to any thing whereby they may contribute to the flourishing of the sciences and good literature, and to the propagating of religion and loyalty in universities; and particularly, that they diligently inquire, what privileges and interest the judicatories of this church, or the ministers thereof, have by the constitutions of the several universities and colleges, and by the laws of the land, with respect to the settlement of the masters and professors in them; which the Assembly appoints the commission, by all just methods, to maintain inviolably, and improve towards the promoting of the foresaid interests of true piety and learning; and for this end, to receive and give all due encouragement to whatever applications may be made to them to this effect.—*Act 12.*

## VACANT CHURCHES.

1694. Recommended to his majesty's high commissioner, That he would, in the Assembly's name, apply to their majesties for a general recommendation to the lords of privy council, lords of treasury and exchequer, lords of session, and other judges whatsoever, in favours of such as shall, by order of the Assembly, serve vacant congregations in the north, that they may have access for maintenance out of the vacant stipends, during the time they serve.—*Act 15.*

1697. All ministers appointed by the General Assemblies or their authority, to labour for some time in these corners of the church where vacancies are most numerous, are obtested and beseeched to be diligent and faithful in their performance of what is appointed them; and in case any ministers shall not exactly and timeously perform their respective appointments, particularly in going to the north; they are ordered to be suspended from the exercise of their ministry, for the space of three months, by their respective presbyteries, as soon as they begin to neglect this duty; and the moderators of the several presbyteries are required to move and propose to the presbyteries to proceed to inflict the censures above appointed without delay; and in case any moderator shall neglect and delay the performance of his duty hereby required, that he be suspended from the exercise of his ministry by the next ensuing synod of the bounds, for the space of three months; and in case that inevitable impediments fall providentially in the way of the minister thus appointed for supplies, that cannot but free the minister of any neglect, that the presbytery he belongs to, do record the same in their registers, and produce them to their synod at their next meeting, to be by them judged; but withal, the presbytery, in that case, shall be obliged to send another, under the same certification; but so soon as he applies to the presbytery, and offers obedience, the presbytery shall be obliged to take off the

act of suspension; and the Assembly appoints their churches to be supplied daily, at least two Sabbaths of three, during their absence. And the ministers appointed to make these supplies, in case of their neglect, are to be presbyterially rebuked, and that inserted in the records of the presbytery. And that synods particularly inquire anent, and see to the execution of this act, and report to the next ensuing General Assembly.—*Act 8.*

1711. Every minister is prohibited from taking upon him to preach in vacant congregations, not within the bounds of his own presbytery, without an invitation, either from the presbytery of the bounds, or at least from some neighbouring minister in that presbytery.—*Act 15.*

1735. It is recommended to all judicatories of the church in planting vacant churches, to have a due regard to the principle contained in Act 6, Ass. 1575, 2 Book of Discipline, chap. 3, § 4, 6, 8, Act Dec. 17, 18, Ass. 1638, and Act 9, Ass. 1715, that no minister be intruded into a parish contrary to the will of the congregation; and to all presbyteries, that they be at pains to bring about harmony and unanimity in congregations, and to avoid every thing that may excite or encourage unreasonable exceptions in people against a worthy person that may be proposed to be their minister, in the present situation and circumstances of the church, so as none be intruded into such parishes, as they regard the glory of God and edification of the body of Christ.—*Act 14.*

1759. It is appointed, in order to prevent unnecessary protracting of vacancies in parishes, that it shall be among the questions asked by synods at the several presbyteries, at their privy censures, what vacancies there are in their bounds? of how long continuance these have been? and the reasons why they are not supplied? And if the synod find the presbytery dilatory after the right of planting any parish has, by law, fallen into their hands, the synod shall enjoin them to proceed towards the settlement of that parish, without further delay.—*Act 7.*

## VACANT PARISHES.

1820. The Assembly approve of the following report by a committee.—*Act 8.*

*1st*, The General Assembly authorize the procurator and agents for the church to look into the case of this parish of Arbuthnot, and into such other cases as may exist at present, or occur hereafter, involving circumstances of protracted vacancy, occasioned by litigation betwixt contending patrons; that they watch over the progress of the respective processes, and endeavour to prevent improper or unnecessary delays.

*2dly*, The Assembly recommend to the several presbyteries within whose bounds there is or may be a long vacancy in any parish, occasioned by contested claims of patronage, to endeavour, as far as possible, to furnish regular supplies of preaching at suitable intervals; and for this purpose, to employ licentiates of this church, according as these presbyteries may see proper, and find convenient; to authorize the several ministers in their bounds, to administer the ordinance of baptism within the vacant parish respectively, and to perform the other functions of an ordained minister therein, as the circumstances of the parish may require: And in case the heritors, elders, or parishioners apply to the presbytery for this purpose, that the Assembly recommend to them to exercise their constitutional power in dispensing the sacrament of the Lord's supper within such vacant parish, at such times, and under such arrangements, as the presbytery shall find most proper.

*3dly*, The Assembly authorize and recommend to the respective presbytery, in which any case of long vacancy of the above, or any other description may occur, to take proper measures, as far as they can, for securing and preserving the civil interests of the vacant cure, especially in respect of the church, the manse and offices, and the glebe; and for attending to the poor, and to the schools of the vacant parish.—*Act 8, May 26.*

## VACANT STIPENDS.

1694. It is recommended to his majesty's high commissioner, that he would, in the Assembly's name, apply to their majesties for a general recommendation to the lords of privy council, lords of treasury and exchequer, lords of session, and other judges whatsoever, in favours of such as shall, by order of the Assembly, serve vacant congregations in the north, that they may have access for maintenance out of vacant stipends, during the time they serve.—*Act 15.*

## VAGRANT MINISTERS.

1690. Recommended to presbyteries, to take notice of all ministers within their bounds, whether the late conforming incumbents, or others, who shall not observe fasts and thanksgivings indicted by the church, or who shall be found guilty of any irregular carriage in administering the sacraments in private, or celebrating clandestine marriages, without due proclamation of banns; and to censure accordingly.—*Act 6.*

1696. Recommended seriously to all synods and presbyteries, That they advert to the many irregularities committed by vagrant unfixed ministers, many of whom are lying under ecclesiastical censures, to the great scandal and hinderance of the gospel, and tending to the rending of churches and congregations; and prudently to proceed to take such course with them as the circumstances of the case and time require: And presbyteries, where any great difficulty occurs in cases of this nature, are appointed to consult their synods, or the commission of the Assembly thereanent, before they proceed to any further-censure.—*Act 23.*



VISITATION OF KIRKS, COLLEGES,  
AND SCHOOLS.

1638. The acts of Assembly, held at Edinburgh, June 1565, auent the visitation of kirks, schools, and colleges, ordained to be put in execution; and that the minister of the parish, the principal, regents, and professors within the colleges, and masters and doctors of schools, be tried concerning the soundness of their judgment in matters of religion, their ability for the discharge of their calling, and the honesty of their conversation; as the acts of Assembly at Edinburgh, June 1567, and at Montrose, 1595, import: And that this visitation of colleges be by way of commission from the General Assembly.—*Act Sess. 23, 24, Dec. 17, 18, § 4.*

1645. It is enacted, 1. That every grammar school be visited twice in the year, by visitors to be appointed by the presbytery and kirk-session in landward parishes, and the town-council in burghs, with their ministers; and where universities are, by the universities, with consent always of the patrons of schools; that both the fidelity and diligence of masters, and the proficiency of scholars in piety and learning may appear, and deficiency censured accordingly; and that the visitors see that the masters be not distracted by other employments, which may divert them from their diligent attendance. 2. For remedy of the great decay of poesy, That no schoolmaster be admitted to teach a grammar school in burghs, or in other considerable parishes, but such as, after examination, shall be found skilful in the Latin tongue, not only for prose, but also for verse; and, after other trials to be made by the ministers, and others deputed by the session, town, and parish for this effect, that he be also approven by the presbytery. 3. That neither the Greek language, nor logic, nor any part of philosophy, be taught in any grammar school, or private place, within this kingdom, to young scholars, who thereafter are to enter to any college, unless it be for a preparation to their entry there; and notwith-

standing of any progress any may pretend to have made privately in these studies, yet in the college he shall not enter into any higher class than that wherein the Greek language is taught; and, being entered, shall proceed orderly through the rest of the classes, until he finish the ordinary course of four years, unless, after due trial and examination, he be found equal in learning to the best, or most part of that class to which he desires to ascend, by overleaping a mid class; or to the best or most part of those who are to be graduate, if he supplicate to obtain any degree before the ordinary time: And also that there be found other pregnant reasons to make the faculty of arts condescend thereto, and otherwise that he be not admitted to the degree of master of arts. 4. That none be admitted to enter a student of the Greek tongue in any college, unless, after trial, he be found able to make a congruous theme in Latin; or, at least, being admonished of his error, readily knows how to correct the same. 5. That none be promoted from one inferior class of the ordinary course to a superior, unless he be found worthy, and to have sufficiently profited; otherwise, that he be ordained not to ascend with his condisciples, and if he be a bursar, that he lose his burse; and namely, it is to be required, that those who are taught in Aristotle, be found well instructed in his text, and be able to repeat in Greek, and understand his whole definitions, divisions, and principal precepts, so far as they have proceeded. 6. That such trial be taken of students, especially of magistrands, that those who are found unworthy, be not admitted to the degree and honour of masters. 7. That none who have entered to one college be admitted to another, without the testimonials of the masters of that college wherein he entered first, both concerning his literature and dutiful behaviour so long as he remained there; at least, until the masters of that college from whence he cometh be timeously advertised, that they may declare if they have any thing lawfully to be objected to the contrary; and that none be admitted, promoted, or received to a degree in any college, who was rejected in another college for his unfitness and unworthiness, or any other cause repugnant

to good order ; or who leaves the college where he was for eschewing censure or chastisement for any fault committed by him ; or who leaves the college because he was chastised, or for any other grudge or unjust quarrel against his master. 8. That none of those who may be lawfully received into one college after he was in another, be admitted into any other class, but that wherein he was, or should have been, in the college from whence he came, except upon reasons mentioned in the 3d article preceding. 9. That at the time of every General Assembly, the commissioners directed thereto from all the universities of this kingdom, meet and consult together, for the establishment and advancement of piety, learning, and good order in the schools and universities ; and be careful that a correspondence be kept among the universities, and so far as possible, an uniformity in doctrine and good order. — *Act Sess. 14, Feb. 7.* •

1647. It is recommended to synods, to take account of the observance of the above overtures, Sess. 14, Feb. 7, Ass. 1645, for visitation of schools, and advancement of learning. — *Act Sess. 28, Aug. ult.*

## VISITATIONS MINISTERIAL OF FAMILIES.

1708. The following articles are unanimously recommended to the ministers of this church, not as binding rules, but as an help to them in their visiting of families, viz. that ministers visit all the families in their parish, at least once a-year, if the same be large ; and oftener, if the parish be small ; and in the management of that work, it is advised, 1. That ere a minister set out to this work, he labour to have his own heart in a suitable frame for it. 2. That he choose such a time in the year as his people may be best at leisure to meet with him ; and that due intimation be made of the minister's design to visit, that the people may order their affairs so that he may find them at home. 3. That he be accompanied with the elder of the bounds ; with whom he may confer before they go forth to the work about the state and condition

of the persons and families of these bounds, that the minister may be able to speak the more suitably to their condition, and as may be most for edification. 4. When they enter a house, after a short account of the design of the visit, they are to take an account of the names of the family, parents, children, and servants; and inquire for certificates from those who are lately come to the parish, and to mark them in their roll for catechising; and to take notice who can read, and of the age of children, when capable for catechising. 5. Then the minister may speak to them all in general, of the necessity of regeneration, and the advantage of serious religion and godliness; of piety towards God, and justice and charity towards men. 6. And next, more particularly, to the servants, of their duty to fear and serve God; and to be dutiful, faithful, and obedient servants, and of the promises made to such; recommending to them the reading of the scriptures as they can, and prayer in secret, and love and concord among themselves; and in particular, a holy care of sanctifying the Lord's day. 7. The minister is to apply his discourse to the children, as they are capable, with affectionate-seriousness; shewing them the advantages of knowing, loving, seeking, and serving God, and remembering their Creator and Redeemer in the days of their youth, and honouring their parents; and to remember how they were dedicated to God in baptism; and when of age, and fit, and after due instruction of the nature of the covenant of grace, and seals thereof, to excite them to engage themselves personally to the Lord, and to desire and pray for; and take the first opportunity they can of partaking of the Lord's supper; to be specially careful how they communicate at first, much depending thereon; and such of the servants as are young are to be exhorted hereto in like manner, exciting them also to daily reading of the scriptures, and to secret prayer, and sanctifying the Lord's day. 8. After this he should speak privately to the master and mistress of the family about their personal duty towards God, and the care of their own souls' salvation, and their obligations to promote religion and the worship of God in their families, and to restrain and punish vice,

and encourage piety, and to be careful that they and their house serve the Lord, and sanctify the Lord's day. After this it may be fit to exhort masters to take care that God be worshipped daily in their family, by prayer and praise, and reading of the scriptures. They should inquire of him concerning the conversation and behaviour of the servants, and their duty towards God and man, and how they attend the worship of God in the family, and the public worship on the Lord's day, and how they behave after sermon; if any of them be piously inclined, if they make conscience of secret prayer and reading of the scriptures; if there be catechising and instructing of the ignorant and weak, if due care be taken in educating the children, and particularly, if they be put timeously to school, and how they profit thereat, and how the Lord's day is spent after sermon in the family, and in secret; all which the minister may mix with suitable directions, encouragements, admonitions, as he shall see cause, and most for edification. 9. He may inquire who have bibles, and encourage them who are able to get bibles of their own, to make diligent and religious use thereof, and to recommend to parents and masters of families, to have the Confession of Faith, catechisms, and other good books for instruction in faith and manners. 10. If any be tainted with errors, or given to vice, they should be particularly dealt with and spoken to, either privately, or before others, as may be most for edification, and all in the family are to be exhorted to watch and edify one another, and to carry towards any that walk disorderly according to the rule, Matt. xviii, 15. 11. If there be any difference or division, either in the family, or with the neighbours, the minister should endeavour to remove the same, and to make peace, and to excite to follow it with all men, as far as possible. 12. It may be also inquired of those who have received tokens to communicate the last season for it, whether they have made use of them or not, and those who have communicated may be inquired privately how they have profited thereby, and excited to remember to pay their vows to the Lord. 13. If there be any in the parish who keep not church communion with us, whatever

their motives be, ministers ought to deal with God for them, and with themselves, in such a way as may be most proper to gain them, and exoner their own consciences before God and his people, waiting if God peradventure will prevail with them; who can tell but our making them sensible of our tender love and affection to their persons, especially to their souls, giving them all due respect, and doing them all the good we can, yet still discountenancing their sin, may, in the end, be blessed of God for their good, Jude xxii, 23; 2 Tim. ii, 23, 25. All this should be carried on with dependence on God, and fervent prayer to him, both before a minister set forth to such a work, and with the visited, as there shall be access to, and opportunity for it.—*Act 10.*

### VISITATIONS PRESBYTERIAL OF PARISHES.

1638. That visitation of particular kirks within presbyteries be made once every year, and that thereat care be had, amongst other things, to try how domestic exercises of religion are exercised in particular families, and what means there are in every parish in landward for catechising and instructing the youth.—*Act Sess. 23, 24, Dec. 17, 18, Art. 3.*

1700. It is recommended to all presbyteries to be diligent and careful in visiting the parishes within their bounds, and to take particular notice how all sums of money mortified, or otherwise belonging to the poor of the parish, have been managed and applied from time to time, and if they shall find any dilapidations of any such sums, that those guilty thereof be pursued according to law, and that the several synods take account of the presbyteries within their bounds, of their diligence therein.—*Act 22.*

1706. It is seriously recommended to, and enjoined on presbyteries, to be more frequent and conscientious in visiting parishes, conform to acts of former General Assemblies thereanent, and the commission is appointed to

draw up and prepare a directory for ministerial visitation of families, and present the same to the next General Assembly.—*Act 16.*

1749. It is recommended and enjoined, That presbyteries hold visitations of parishes where public schools are wanting, and take all proper and legal steps for settling such schools therein, with competent salaries, and the building of school-houses, as the law directs.—*Act 6.*

### WARNING.

1645. A solemn and seasonable warning from the General Assembly 1645, to the noblemen, barons, gentlemen, burghs, ministers, and commons of Scotland, as also the armies within and without the kingdom, holding forth how the nation ought to be affected with the present mercies and judgments, what use is to be made of the Lord's dealings; and what is required of a people so dealt with, and shewing the cause of the present calamities to be the sins of the land, particularly, 1. Contempt, neglect, and disesteem of the glorious gospel, unbelief, unfruitfulness, lukewarmness, formality, hardness of heart, not receiving nor seeking to know and glorify Christ in all his offices, hating, mocking at, and neglecting the power of godliness, not observing the Sabbath, neglect of Christian conferences, family exercises, and ministers strengthening the hands and heart of the profane, and not taking heed to their ministry. 2. The breach of covenant, in the many ways mentioned in the warning. 3. Not glorifying God for former mercies, nor making a proper use of them. 4. Sending forth the armies presumptuously without repentance, and first making peace with God, and for remedy of these calamities, exhorting to humiliation, repentance, faith, amendment of life, and fervent prayer; and shewing the cause of the then present dangers to be from a popish, prelatical, and an avowed malignant faction, from secret malignants and discovenanters, characterised in the said warning; and exhorting people to appear actively, and stretch themselves to, yea beyond, their power, for the

cause of God ; that ministers stir up others by faithful preaching and admonition ; that the armies beware of ungodliness, not trusting in their own strength, but in God ; that people of all sorts call to mind their solemn covenants, and pay their vows to the Most High, and contribute willingly for prosecuting the war against the enemies of the reformation, and that they assist and defend one another in maintaining and pursuing thereof.—*Sess. 18, Feb. 12.*

1649. A warning and declaration from the General Assembly of this kirk to all the members thereof, concerning the dangers and duties of the times, wherein they acknowledge their merciful deliverances from many trials ; they warn the people of the judgments due for breach of covenant ; of their dangers from a malignant and scandalous party in the army, and at home, and from standing armies of such in Ireland ; from the sectaries in England ; from the king's hearkening to the counsels of those who were the authors of the miseries of his royal father ; they exhort to repentance and love of the truth, and encourage them to self-defence in case of invasion from sectaries or malignants, and to adhere to their principles ; and after a short narrative of the proceedings both of church and state with the king's royal father, all are exhorted to wrestle with God on behalf of the king, that he may be recovered out of the snares of evil counsel, and be brought to give satisfaction to the public desires of church and state, and in their stations, to use all endeavours with himself and others for that effect ; and upon satisfaction given, to be willing to admit him to the exercise of his power, and cheerfully obey him in all things according to the will of God, and the laws of the kingdom ; and to do every thing that tends to the preservation of his majesty's person and just greatness and authority in the defence and preservation of the true religion, and liberties of the kingdom ; but to defend the kingdom against invasion. People are exhorted, to beware of the subtle devices that may be essayed to draw them off to dispense, at least, with some part of the necessary desires propounded to his majesty for securing religion ; they are exhorted to endeavour to procure from



his majesty, that he not only swear the coronation oath, but his allowance of the covenant, and obligation to prosecute the ends thereof, and that he enjoin the covenants, establish presbyterial government, the directory for worship, confession of faith, and catechisms, and that he shall observe these in his own practice and family; and the Assembly declares the obligation of the covenant perpetual; they exhort the parliament to their duty, and not to be wanting in any necessary testimony of duty and loyalty to the king, and constantly to adhere to their former principles, resolutions, and desires from him, concerning religion and the covenant, that they purge out of all places of trust, civil and military, all malignants and sectarians; the army is exhorted to stick closely by the cause of God against malignants and sectarians, and to carry christianly. Ministers are exhorted to walk exemplarily, and to take heed to their flocks, and to declare to them the whole council of God, to give them timely warning of every danger and duty, especially of the times, is recorded in *Sess. 27, July 27.*

1714. The proceedings of the commission of Assembly 1713; are approved; and they are thanked particularly for their zeal against popery, and their seasonable impressing the minds of the people with loyalty to her majesty, firmness to the protestant succession in the illustrious family of Hanover, and just aversion to the Pretender, all fully expressed in a seasonable warning given and published by the said commission.—*Act 9.*

1799. The Assembly address a pastoral admonition and warning to all the people under their charge, respecting vagrant teachers and Sunday's schools; which see at large in *Act 11.*

#### WEDDINGS, &c.

1649. Presbyteries ordered to take special care to restrain the abuses which take place at penny bridals (weddings), and also to censure the observers of lykewakes: by Act Feb. 12, Ass. 1645; and to prevent promiscuous

dancing, and to censure such as are guilty of it, by *Act July 19.*

1701. The foressaid acts are revived ; and the said acts are appointed to be read in churches before the congregation, and synods to inquire at presbyteries concerning their diligence, anent the observance of the said acts ; and recommended to presbyteries to have their thoughts upon what further may be necessary for suppressing and preventing abuses at such occasions, and give their opinion thereanent to the then next Assembly.—*Act 20.*

1706. Recommended to presbyteries to apply to the judges ordinary for putting the laws relating to penny-bridals in execution, and the commission is appointed, upon representations from presbyteries of the judge's refusal to apply to the government for obliging them to execute their office in this matter.—*Act 4.*

1719. Recommended to synods, presbyteries, and kirk-sessions, to see to the execution of the acts of Assembly against abuses at penny-weddings, and to apply to the civil magistrate for the execution of the laws against persons guilty of abuses and disorders on these occasions.—*Act 10.*

## WIDOWS.

1718. It is recommended, 1. That every minister in Scotland dedicate the tenth of his stipend for one year, for the relief of the widows and orphans of the ministers of this church, and it is appointed to be paid, in money and no otherwise, to the moderator of each presbytery, betwixt and the 15th May 1719 ; or betwixt and the 15th May 1721, with the ordinary annual rent thereof from the said 15th May 1719, to the time that the same shall be paid in. 2. That every minister thereafter to be ordained or admitted within the bounds of any synod, within the space of two years after his admission, pay in his said tenth, if he has not already paid it in another synod. 3. The money collected is appointed to be turned into a stock, and only the interest thereof to be distributed.

4. The contributors in every synod are appointed to have the management of what sums shall be collected, and given to the widows and orphans of ministers, who have served and contributed within their bounds. 5. No ministers' widows and children shall have any benefit from this fund, except their husbands or fathers have actually paid their tenth. 6. No ministers' widows shall have any title to the fund, after they shall be married to another husband, or children after marriage, or their being in a situation to do for themselves. 7. No widow or child entitled to a share of this fund shall be allowed above £10 thereof. 8. If any other charitably disposed persons, besides ministers, shall contribute, they shall have a vote and power in the management and distribution of the foresaid funds. 9. The Assembly discharge any distribution to be made, but at the ordinary diets of the synod. 10. It is declared, That such presbyteries as have already settled a fund for their widows and children, shall be at liberty either to keep and manage the same themselves, or join with the synod, as they shall think best. Lastly, it is declared, That if any event unforeseen shall fall in; that may hinder the execution of the above articles, in the manner proposed, the premises shall be ordered and managed according to further rules and directions to be given by the subsequent General Assemblies of this church.—*Act 4.*

1728. The time allowed by the above act for ministers paying in their contributions is extended to the term of Whitsunday 1725.—*Act 10.*

1735. The time is further extended to the term of Whitsunday 1736, by *Act 4.*

*Note.*—The above acts superseded by act of parliament 17 Geo. II, amended by act 19 Geo. III, 20, entitled “An Act for raising and establishing a fund for a provision for the widows and children of ministers of the church of Scotland, and of the heads, principals, and masters of the universities.”

1744. That the said act of parliament may be easily and effectually executed, it is appointed, That every presbytery shall keep a separate register, wherein they

shall record the names and parish churches of all the ministers then members of their respective presbyteries, or who shall thereafter be admitted to a benefice within their bounds, with a particular account; if such ministers be married, with the dates of their first ordination or admission to a benefice in the church of Scotland, the names of all their present children, the day, month, and year, of the birth of such of them as are under the age of sixteen; the names and dates of the birth of such of their children as shall thereafter be born: and likewise of their deaths, as the same shall happen. And ordained, That every presbytery record the names and parish churches of the several ministers who shall thereafter be admitted to a benefice within their bounds, with the particular dates of their respective admissions; and an account if such ministers be married, with the dates of the then marriages, or such of them as shall happen after their admissions; and shall also record the several facts relating to their children in like manner as above appointed with respect to ministers then members of the church. And enjoined, That presbyteries record the time of the deaths of ministers, as the same shall happen; with the names of their widows, residing at the time of their deaths or marriage within their bounds; as also the dates of the several vacancies that were vacant on the 25th of March then last, or shall thereafter happen within their bounds, with the causes of the vacancies. And in general, it is ordained, That presbyteries record from time to time all other things that shall be found necessary by the trustees, for the more easy execution of the said act; and that all ministers now entitled to a benefice in the church of Scotland lodge, from time to time, in the hands of the clerk of their presbyteries, a particular condescendence of the facts relating to their respective cases, as the same shall happen; all which facts are ordained to be entered distinctly by presbytery-clerks in the separate register, under proper columns, and regularly signed by moderators and clerks, and by ministers respectively concerned, from which the presbyteries may annually make up the lists necessary for each year, and transmit the same duly

attested to the trustees, as directed in the said act of parliament.—*Act 4.*

1745. The above act renewed, and the observance of it strictly enjoined; and that it may be more regularly and uniformly observed, appointed, That the several presbyteries keep separate registers according to the plan agreed upon by the Assembly, and recorded in their register; and each minister is required duly to report to the presbytery, either by himself or by letter, any alteration which shall happen from time to time in his family, at the first diét immediately subsequent to such alteration; or as soon as he possibly can. And appointed, That synods call for separate registers at least once a-year, and carefully inspect the same, and attest, That they are kept according to the plan referred to in this act; which attestation shall be marked in the synod's records. And it is enacted, That every presbytery shall meet annually on such a day, betwixt the 11th of November and the 11th of December, as they shall judge most convenient (the presbyteries in the Western and Northern Isles excepted), and shall at such meetings prepare and transmit to the trustees' clerk at Edinburgh, their respective lists for the preceding year, to the end that the trustees may be the better enabled with accuracy to carry on the scheme; and it is recommended to, and enjoined on presbyteries, so soon as this act shall come to hand, to insert the same, and also the above Act 4, Ass. 1744, in their separate register, and to acquaint such of their members as are absent of the contents of this.—*Act 4.*

1747. The strict observance of former acts respecting what is required from presbyteries relative to the fund for a provision to the widows and children of ministers, is enjoined. And it is added to the foregoing Act 4, Ass. 1745, That when synods inspect and attest the separate register, they are required to report their diligence to each General Assembly: That the annual lists be transmitted from time to time to the trustees, and sent to the several presbyteries; and in case presbyteries shall fail in making their annual returns at the time, and in the manner foresaid, that the trustees exert those powers the law

has put into their hands, for obliging presbyteries to transmit their lists in a regular and uniform manner : And that each minister transmit to the collector his bond for £30, according to the form established by the General Assembly, so soon as notice shall be given him by the trustees or their clerk there is money in the collector's hands for payment of the same, as such ministers shall be answerable to the Assembly.—*Act 4.*

1757. It is appointed, That for the future, the separate registers be divided into as many parts as the respective presbyteries consist of parishes ; and that the facts respecting the ministers and vacancies of every parish be stated under its own proper head, or division, marked with the name of the parish : And further, That when the abstract of the acts relative to the widows' fund is transmitted, every presbytery and university shall cause it to be bound up with a separate quire of paper, in order that whatever regulations shall be found necessary with respect to the fund, may be copied into the book ; by which means the whole of the rules concerning the fund will be always at hand.—*Act 4.*

#### WITNESSES.

*Vide* Form of Process, cap. 2, p. 143 of vol. I. of this Compendium.

#### WORSHIP PRIVATE.

1639. That every minister, besides his pains on the Lord's day, shall have weekly catechising of some part of the parish, and not altogether cast off the examination of the people till a little before the communion : Also, that in every family the worship of God be erected where it is not, both morning and evening, and that the children and servants be catechised at home by the masters of families, whereof account shall be taken by the minister and elders assisting him in the visitation of every family ; and lest they fail, that visitation of the several kirks be seriously

followed by every presbytery, for this end, amongst others ; the execution and success whereof, being tried by the synods, to be represented to the General Assembly.—*Act Aug. 30.*

1642. That the several synods and presbyteries, especially those in the north, take care that family exercise in religion, visitation of churches, catechising, keeping of presbyterial and provincial meetings, both by preaching and ruling elders, be carefully observed.—*Act Sess. 11. Aug. 5.*

1647. Rules and directions for cherishing piety, and preventing division and schism, are approven ; and ministers and ruling elders in each congregation appointed to take care that they be observed and followed ; as likewise, That presbyteries and provincial synods inquire and make trial, whether they be duly observed in their bounds ; and to reprove and censure, according to the quality of the offence, such as shall be found reproveable or censurable therein ; and ministers and ruling elders are appointed to make diligent search and inquiry in the congregations committed to their charge *respective*, whether there be amongst them any family or families which use to neglect the necessary duty of family worship ; and if any such family be found, that the head of that family be first admonished privately to amend that fault ; and in case of his continuing therein, he is to be gravely and sadly reprov'd by the session ; after which reproof, if he be found still to neglect family worship, That for his obstinacy in such an offence, he be suspended and debarred from the Lord's supper, as being justly esteemed unworthy to communicate therein, till he amend.—*Sess. 19, Aug.*

1697. Recommended to ministers and elders in each congregation, to take care that the worship of God, and calling upon his name, be daily performed in all families ; and the Act of Assembly 1694, which recommends that none be ruling elders who make not conscience of this unquestionable duty, is renewed. And appointed, That in case any elder or deacon shall neglect to worship God in their families, by themselves or others appointed for that effect, that they be seriously admonished to amend, and,

if need be, rebuked for the same ; And if, notwithstanding of the admonition and rebuke of the minister and other elders, any elder or deacon continue obstinate in their neglect, that such elder or deacon be removed from his office by the presbytery.—*Act 7.*

1711. Seriously recommended to presbyteries to use their utmost endeavours that the worship of God be set up and performed in all its parts, in the families within their bounds, according to the former acts of Assemblies, and directions given concerning the same.—*Act 7.*

### WORSHIP PUBLIC.

1643. Act appointing a directory for worship to be framed with all diligence, and put into the hands of the commissioners of Assembly, to be by them revised and transmitted to the several synods, to the end that being reported, with their consent and observations, to the next Assembly, they might, after full trial and approbation, order and authorize the same to be received and practised by all ministers and particular kirks ; and in the meantime, forbidding all disputations by word or writing, in private or public, about different practices in such things as had not been formerly determined by the kirk, and all condemning of one another, in such lawful things as had been universally received, and by perpetual custom practised by the most faithful ministers of the gospel, and opposers of corruptions in the kirk, since the first beginning of reformation to these times, under the pain of censures of the kirk ; and appointing, that all beginning of separation, all scandals and divisions, be by all means avoided.—*Act Sess. 12, Aug. 15.*

1645. The directory for the public worship of God in all the three kingdoms, agreed upon by both houses of the parliament of England, after consultation with the divines of both kingdoms assembled in England, is unanimously agreed to, and approved by the Assembly in all the heads thereof, together with the preface set before it ; and they require, decern, and ordain, that according



to the plain tenor, and meaning thereof, and the intent of the preface, it be carefully and uniformly observed and practised by the ministers and others within this kingdom whom it doth concern, from and after the time mentioned in the act: And it is recommended to the commission, to take special care for the timeous printing of the said directory, that a printed copy of it be provided and kept for the use of every kirk within the kingdom, and that each presbytery have a printed copy thereof, for their use; and that they take special notice of the observation or neglect thereof in every congregation within their bounds, and make known the same to the provincial or General Assemblies, as there shall be cause: And it is provided, that the clause in the directory respecting the administration of the Lord's supper, which mentioneth the communicants sitting about the table, or at it, be not interpreted as if, in the judgment of the kirk of Scotland, it were indifferent and free for any of the communicants not to come to and receive at the table; or, as if they approved the distributing of the elements by the minister to each communicant, and not by the communicants among themselves: It is also provided, that this act should be no prejudice to the order and practice of this kirk, in such particulars as are appointed by the books of discipline and acts of General Assemblies, and are not otherwise ordered and appointed by the directory; and God's goodness is acknowledged in bringing the uniformity in religion to such a period.—*Act Sess. 10, Feb. 3.*

1645. That ministers bowing in the pulpit, though a lawful custom in this kirk, be thereafter laid aside, for the satisfaction of the desires of the reverend divines in the synod of England, and for uniformity with that kirk.—*Act Sess. 14, Feb. 7.*

1647. Every minister charged to be diligent in fulfilling his ministry; to be holy and grave in his conversation; to be faithful in preaching, declaring the whole counsel of God, as he has occasion from the text of scripture; to reprove the sins and errors, and press the duties of the time; and in all these to observe the rules prescribed by the acts

of the General Assembly ; and if he be negligent therein, that he be censured by his own presbytery. As also, every member in every congregation is ordained to keep his own parish kirk, to communicate therein the word and sacraments, except in urgent cases made known to, and approved of by the presbytery ; otherwise, that the ministers of these congregations whereto they resort do both in public, by preaching, and in private by admonition, shew their dislike of their withdrawing from their own ministers ; and the ministers of that congregation from which they withdraw, shall labour, first by admonition, to reclaim them ; and if they amend not, shall delate them to the session, who shall cite and censure them as contemners of the comely order of the kirk ; and if the matter be not taken order with there, that it be brought to the presbytery : For the better observing whereof, that the presbyteries, at the visitation of their several kirks, and provincial assemblies, in the censure of the several presbyteries, shall inquire thereanent ; which inquiry and report shall be registered in the provincial books, that their diligence may be seen in the General Assembly.—*Sess. 19, Aug. 24.*

1705. The due observance of the directory for public worship, is seriously recommended to all ministers and others within this national church.—*Act 10.*

1709. Recommended to persons of all ranks, to forbear bowing, or other expressions of civil respect, and entertaining one another with discourses while divine worship is performing, and holy ordinances are dispensing ; and that, as to this matter, people carefully observe what is enjoined in the first head of the Assembly's directory for the public worship of God in this church.—*Act 4.*

1812. Recommended to all the ministers of the church, according to their discretion, to read at one of the meetings for public worship such a portion of the Old or New Testament, or of both, as they may judge expedient. Declared, That it is not meant that this recommendation in any degree supersede the exercise of lecturing, which is enjoined to be observed throughout the church in con-

formity to the acts of Ass. 1694, and 1704, as a most important branch of the public ministrations of pastors and teachers.—*Act 19.*

1819. Recommended earnestly to all the parish ministers of this church, to give their countenance and aid, within their respective parishes, to subscriptions for erecting a monumental edifice, comprehending a church, destined for the purposes of divine worship, in commemoration of the unparalleled victories with which the Great Disposer of Events had been pleased to crown the British arms by sea and land, in the late glorious and eventful war, in which the valour of Scotsmen was so conspicuously displayed in every quarter of the globe.—*Act 10.*

#### ZETLAND.

1830. The Assembly, on report of a committee, enacted, That it would be expedient to divide the present presbytery of Zetland into two presbyteries; the one of these two to be called the Lerwick presbytery, to hold its ordinary meetings at Lerwick, and the other to be called the Burravoe presbytery, to hold its ordinary meetings at Burravoe, in the parish of Yell. The presbytery of Lerwick shall consist of the following parishes, viz.:—Dunrossness, Walls, Sandsting, Tingwall, Lerwick, and Bressay; and that the presbytery of Burravoe shall consist of the following parishes, viz.:—Nesting, Delting, Northmavine, Yell, Fetlar, and Unst, thus comprising six parishes in each of the two presbyteries. That the committee are of opinion, that the said two presbyteries should be appointed to form a synod with full synodical powers; that Lerwick should be appointed as the fixed place of the meetings of the synod of Zetland, where its records should be kept, and where the records of the present presbytery should be deposited and kept *in retentis*. That the presbytery of Lerwick should be appointed to meet at Lerwick on the second Wednesday of July next, and proceed to business; that the presbytery of Burravoe should be appointed to meet at Burravoe on the third Wednesday

of July next, and proceed to business; and that the synod of Zetland should be appointed to meet at Lerwick on the last Wednesday of April, 1831, and proceed to business.

**SUMMARY VIEW**  
**OF THE**  
**VARIOUS ACTS OF PARLIAMENT**  
**RELATING TO THE**  
**Church of Scotland.**

All the civil statutes by which the church is established are already given in Vol. I. ; but there are many other acts of parliament relative to the history and interests of the church which it is proper to keep in view.

## ACTS OF PARLIAMENT.

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### ANNAT.

ANNAT, or ANN, is alluded to for the first time in the statute law of Scotland, in an act of Parliament in the reign of Queen Mary, which follows :

*Act 1547, C. 4. Anent Kirk-men.*

At Monk-toun-Hall, the aucht day of September, the zeir of God, ane thousand, five hundreth, and fourtie-seven zeires : The quhilk day, my Lord Governour, with advise and consent of the prelats, kirk-men, earles, lordes, barronnes, and all uthers patrones of benefices, baith spiritual and temporal, understandand that the hail bodie of the realme, is passand forwarde at this time, to resist our aulde enemies of England, cumming in this realme to invade the samin : Ordainis, that quhat-sum-ever kirk-man that happenis to be slaine in this present armie, hurte to the death, or takis seicknes in the samin, and dies in the said seicknes, gangand, remainand, or cummand therefra : That the nearest of the said kirk-mennis kin sall have the presentation, provision, and collation of his benefice for that time allanerly : And the samin to be disposed to the nearest of his kin, that happenis to be slaine, or decease, in manner foresaid, maist able therefore : And the profites of their benefices, with the fruites speciallie on the ground, with the annat thereafter, to perteine to them and their executoures, alsweil abbottes, priores, and all uthers religious men, as all uther kirk-men.

The measure adopted by this statute was again resorted to in the subsequent reign of James VI., by a statute which follows :

*Act 1571, C. 41. Anent Kirk-men that happinis to be slaine in our Sovereine Lordis service, in defence of his hienes autoritie.*

*Item, Our Sovereine Lorde, with advise of his Regents Grace, the three estaites, and haill body of this present parliament, hes statute and ordained, that in case ony our Sovereine Lordes trew lieges, beneficed men, happinnis to be hurt, slayne or wounded to the death, and thereafter of the saidis hurtes or woundes to die, in our Sovereine Lords service, and in defence of his autoritie, at ony time, against the foirfalted and declared traytours, presently being within the castel and burgh of Edinburgh, and uthers his majesties open and manifest enemies, resisters and conspiratours against his hienes autoritie, during all the time of the open and manifest resistance thereto; that the nearest of the said beneficed mennes kyn, abil and qualified, sall have the presentation, provision, and collation of his benefice, for that time allanerlie. And the samin to be disposed to the nearest of his kyn, that happenis to be slayne, or decease, in manner foirsaid, being alwaies abil and qualified therefore, as said is. And the profitis of their benefices, with the fruits specialle on the ground, with the annat thereafter, to pertaine to them, and their executors, alswell abbottes, priores, as all uther kirk-men.\**

\* The government of Scotland thus assumed the disposal of pontifical rights. The monarchs of the Continent never, prior to the reformation, ventured to do this, without the formality of a *concordat* settled with the Pope. Soon after the reformation it became a rule of the protestant churches in Germany to give a year's rent of each benefice to the relict and children of a deceased incumbent. This was called *annus gratie*. King James VI., after this example, addressed a letter to the General Assembly then met at Montrose, proposing to the bishops to enact an ordinance, appointing that the issues of each benefice, for the half year after the death of the incumbent, should belong to his widow and children. This recommendation was complied with. The matter however was not precisely fixed, until the statute of Charles II. was enacted.



*Act 1672, C. 13. Act for the Ann due to the Executors of Bishops and Ministers.*

*Edinburgh, 23d of August 1672.*—The king's majesty, judging it necessary, for the good of the church, that such a stated and equal course be taken for clearing and securing the ann due to the executors of deceased bishops, beneficed persons, and stipendiary ministers, as may be suitable to the interest of the executors, and no discouragement or hinderance to the planting of the vacant benefices: Doth therefore, with advice and consent of his estates of parliament, statute and ordain, that in all cases hereafter, the ann shall be an half years rent of the benefice or stipend over and above what is due to the defunct for his incumbency; which is now settled to be thus, viz. If the incumbent survive Whitsunday, there shall belong to them, for their incumbency, the half of that years stipend or benefice; and for the ann the other half: And if the incumbent survive Michaelmas, he shall have right to that whole years rent for his incumbency; and for his ann, shall have the half years rent of the following year. And that the executors shall have right hereto, without necessity or expenses of a confirmation.

### BLASPHEMY.

Swearers of abominable oaths to be fined and punished as follows: For the first fault, every prelate of kirk, earl, or lord, four shillings; a baron or beneficed man, constituted in dignity ecclesiastical, twelve pennies; a landed man, freeholder, vassal, feuer, burgess, and small beneficed man, six pennies; the poor folks, that have no gear, to be put in the stocks, joggs, or imprisoned for the space of four hours: And women to be weighed and considered according to their blood, and estate of their parties that they are coupled with. For the second fault, every prelate, earl, or lord, aucht shillings; every baron or beneficed man in dignity, twa shillings: every landed man,

vassal, feuer, and small beneficed man, twelve pennies; and every craftsman, yeoman, or servant, aucht pennies; the space of the poor folks imprisonment to be doubled. For the third fault, the said second pains to be doubled; and, for the fourth and last fault, the offenders to be banished or put in ward for the space of year and day at the king's will. And sicklike, all other estates after their quality to be punished effeirandly, and the foresaid pains to be uptaken and applied to the use of the poor folks.—James VI.—1518.

Whosoever hereafter, not being distracted in his wits, shall rail upon, or curse God, or any of the persons of the blessed trinity, shall be processed before the chief justice, and being found guilty, shall be punished with death.—Charles II, 1661. The above act ratified, and whoever hereafter shall, in writing or discourse, deny, impugn, or quarrel, argue, or reason against the being of a God, or any of the persons of the blessed trinity, or the authority of the holy scriptures of the Old and New Testament, or the providence of God in the government of the world, shall for the first fault be punished with imprisonment, aye and while they give public satisfaction in sack-cloth to the congregation within which the scandal was committed. And for the second fault, the delinquent shall be fined in an year's valued rent of his real estate, and the twentieth part of his free personal estate (the equal half of which fines are to be applied to the use of the poor of the parish, within which the crime shall happen to be committed, and the other half to the party informer), besides his being imprisoned aye and while he make again satisfaction, *ut supra*. And for the third fault, he shall be punished by death, as an obstinate blasphemer.—William and Mary, 1695.

## COMMUNION.

The parsons of all parish kirks ordained to furnish bread and wine for the communion, James VI. 1572. Every parish kirk ordained to be provided with basons, and lavoirs for the ministration of the sacrament of bap-

tism, and of cups, table, and table cloaths for the ministration of the holy communion at the expense of the parishioners. The same to be received by the minister for that use ; and he, his heirs and executors, to be liable for them in case they be lost, or put to a profane use. James VI, 1617. All subjects appointed to communicate once every year.—James VI, 1600.

### CONFESSION OF FAITH.

The confession of faith ratified, and all acts of parliament contrary to it, rescinded, James VI, 1567. All laws, statutes, and acts of parliament made against popery and papists revived, ratified, and perpetually confirmed ; and the Westminster confession of faith voted and approved by parliament as the publick and avowed confession of this church.—William and Mary, 1690.

### CONGREGATION.

Whatsomever person makes perturbation or impediment in the kirk, and will not desist therefrom, shall incur the pains as after follows : for the first fault, a prelate, earl, or lord, ten pound ; a baron or person constituted in dignity ecclesiastical, five pound ; a vassal, freeholder, burgess, or small beneficed person, forty shillings, and poor folks that have nae gudes, to be put in prison for fifteen days, to fast on bread and water ; and for the second fault the doubling thereof, and for the third fault warding of their persons, or banishing for year and day. Bairns that perturb the kirk, to be leished.—May 1551. The perturbing of the order of the kirk in the time of divine service to be a point of dittay, and the persons convicted thereof to tyne all their moveable gudes, which shall be escheated to our sovereign lord.—James VI, 1587.

## EXCOMMUNICATION.

Excommunicated persons who enter into the congregation during the ministration of the sacraments or common prayers, to be apprehended, and delivered to the judge ordinary, who shall keep them in prison till they find caution, under such sums as the minister shall modify.—James VI, 1585.

No persons who are, or who shall be excommunicated, allowed, directly or indirectly, to enjoy the possession of their lands, rents, and revenues, but the same shall be intromitted with, and uplifted for his majesty's use.—James VI, 1609.

Every archbishop or bishop within the bounds of their diocese, shall give up once every year, to the treasurer, comptroller, collector or director of chancery, a roll containing the names of persons excommunicated for religion, and the director of chancery shall give out no brieves, receive no retours, nor direct a precept upon retours, and comprysings in favour of any whose name is inserted in said roll, until a sufficient testimonial be produced from the said archbishop or bishop of the excommunicated person's obedience and satisfaction to the kirk.—James VI, 1609.

Forty days being passed after sentence of excommunication, enacted, that letters be directed at the instance of his majesty's advocate for denouncing the excommunicated rebels, and for putting them to the horn, by warrant of the Lords of Privy Council and Session, and that such denunciation be sufficient against them for using of caption, and for taking the escheat and liferent of the rebels, conform to the standing laws of this kingdom.—Charles II, 1661.

All acts denouncing civil pains upon sentences of excommunication, rescinded.—William and Mary, 1690.

No civil pain, or forfeiture, or disability whatsoever shall be incurred by any person, by reason of any excommunication, or prosecution in order to excommunication by the church judicatures in Scotland.—10 Anne, 6.

## FORNICATION.

All persons who commit the filthy vice of fornication, and are convicted thereof, shall be punished in manner following: For the first fault the man as well as the woman shall pay the sum of fourty pound, otherwise both shall be imprisoned for the space of eight days, and be fed on bread and small drink, and afterwards shall be presented at the market-place of the town or parish bareheaded, and there stand fastened for the space of two hours. For the second fault they shall pay the sum of an hundred marks, otherwise the days of their imprisonment shall be doubled, and their food shall be bread and water allenarly; and in the end they shall be presented at the market-place, and the heads of both shall be shaven: For the third fault they shall pay an hundred pounds, or else their imprisonment shall be tripled, and their food be bread and water allenarly; and in the end they shall be taken to the deepest and foulest pool or water of the town or parish, and be there thrice dowed, and afterwards banished the town or parish forever. The pecunial pains which shall be received, shall be kepted in a close box and converted *ad pios usus* in the parts where the crime was committed.—James VI, 1567, 1649; 12.

The justices of the peace empowered to put in execution the acts of parliament made for the punishment of persons guilty of fornication, and shall levy for the first fault from a nobleman four hundred pounds, from a baron two hundred, from a gentleman or burgess one hundred, and from every other inferior person ten pounds Scots money; and these penalties shall be doubled according to the relapses and quality of the offenders.—These penalties shall be levied, not only from the man, but from the woman according to her quality and degree of offence, and shall be disposed of to pious uses, viz. the one half shall be given to the parish where the offenders live, or where the offence was committed, and the other half shall be divided into two equal parts, and given, the

one half to the informer, and the other to the constable for bringing the accused person to justice.—Charles II, 1661.

All laws and acts of parliament against fornication and uncleanness renewed and confirmed.—William and Mary, 1690.

All laws and acts of parliament against fornication and profaneness again revived and ratified, and persons guilty of it ordained to be prosecuted, and the fines imposed to be instantly paid to the parish collectors for the poor, or the party to be imprisoned till sufficient caution be found for the payment of them; and no pretence of different persuasion in matters of religion, shall exeeem the delinquent from being censured and punished for such immoralities.—William, 1696, October 9.

### GLEBE.

As much land shall be annexed to the dwelling-place of them that minister at the kirk, as shall hereafter with good advisement be appointed.—Margaret, 1563.

The minister shall have four acres of glebe, lying most contiguous to the manse, if there be so much, and failing thereof so much as shall be designed by the archbishop, bishop, or superintendent, or commissioner of the diocese or province, by the advice of any two of the most honest and godly of the parishioners which he shall require; and this whether the glebe be set in feu or tack or not.—James VI, 1572.

Ministers shall pay no tiend for their glebes or kirk-lands extending to four arces of land.—James VI, 1578.

The acts of parliament anent manses and glebes extended to abbeyes and cathedral kirks, so that ministers presently admitted, or who shall hereafter be admitted to the office of the ministry within said kirks, shall have four acres of land lying most contiguous to the manse, and which before pertained to the abbey, or to any member thereof.—James VI, 1582.

Where there has been no glebe of old, or where

it has been within the quantity of four acres; the designation shall be made out of the parson, vicar, abbot, or prior's lands: and failing thereof, out of the bishop's lands, friar's lands, or any other kirk lands lying within the bounds of the said parish.—James VI, 1593.

The glebe shall be designed with freedom of foggage, pasturage, feuel, divot, loaning, free ish and entry, and all other rights and privileges according to use and wont.—James VI, 1593.

Where the designation of manse or glebe is made from kirklands, the feuers, possessors, and tacksmen, out of whose lands the manses or glebes are designed, shall have relief of the remanent parishioners who are feuars, possessors, or tacksmen of kirklands lying within the parish *pro rata*.—James VI, 1594.

In all time coming where there is no arable land adjacent to the kirk, four souns of grass shall be allowed for each acre of the four acres of glebe, extending in hail to sixteen souns grass, and that of the most commodious and best pasturage of any kirklands lying nearest to the kirk.—James VI, 1606.

Where there are no kirklands within the parish, or where the same are mortified to universities, schools, or hospitals, it shall be lawful to design a glebe to the minister out of any other land, or out of grass where there is no arable land, most commodious and nearest to the kirk. And the whole heritors of the parish must contribute proportionally for a recompence to the heritor whose land is designed for the glebe, viz. heritors of kirk-lands when kirk-lands are designed; and all the heritors of the parish when other lands are designed.—1644, 31.

Every minister shall have feuel, foggage, feal and divot according to the act of parliament 1593. Every minister, except ministers of royal burghs, who have no right to a glebe, shall have grass for one horse, and two kine over and above their glebe, which shall be designed out of kirk-lands, with relief according to former acts: and if there be no kirk-lands lying near the minister's manse, out of which the grass for one horse and two kine may be designed; or if the said lands be arable, the heri-

tors shall pay to the minister and his successors yearly the sum of twenty pounds Scots, for the said grass for one horse and two kine, they being always relieved according to the law of other heritors of kirk-lands in the parish.

It is specially provided, that in all designations of glebes, incorporate acres in village or town where the heritor hath houses and gardens shall not be designed, he giving always other lands nearest to the kirk.—Charles II, 1663.

No beneficed man under a prelate in time coming shall set longer tacks of tiends or of other pertinents of their benefice, without the consent of their patrons, than for the space of three years.—James VI, 1593.

No archbishop, bishop, or other prelate shall hereafter set in tack and assedation any part of their patrimony for longer space than nineteen years; and no inferior beneficed person shall set in tack any part of their benefices for longer space than their own life time, and five years after their decease, under the pain of deprivation, and to be reputed infamous and incapable of any publick function in the kirk.—James VI, 1617.

## GOVERNMENT OF THE CHURCH.

*Vide* acts from 1560 to 1707 inclusive, in Vol. I. of this Compendium.

Bishops reponed and restored to their ancient and accustomed honours, dignities, prerogatives, privileges, livings, lands, tiends, rents, thirds, and estate, as the same was in the reformed kirk, most ample and free at any time before the act of annexation.—James VI, 1606.

The indiction of the General Assembly of the kirk shall belong to his majesty, by the prerogative of his royal crown. Bishops shall be moderators in every diocesan synod, which shall be held twice a year in April and October. Where the dioceses are large, there shall be two or three synods in convenient places for the care of the ministry. In case the bishop of the diocese be necessarily absent, his place shall be supplied by such an



worthy minister bearing charge within the bounds, as the archbishop or bishop shall appoint. No sentence of excommunication or absolution therefrom shall be pronounced for or against any person without the knowledge and approbation of the bishop of the diocese, who must be answerable to God and his majesty for all formal and impartial proceeding therein. In deposition of ministers, the bishop associating to himself the ministry of the bounds where the delinquent served, shall there take trial of the fact, and upon just cause found, he shall be deprived. The like order shall be observed in the suspension of ministers from the exercise of their functions. Every minister, at his admission, shall swear obedience to his majesty and to his ordinary, the visitation of ilk diocese shall be done by the bishop himself, and if the bounds be greater than he can overtake, then shall he make special choice of some worthy minister within his diocese to visit in his place. The convention of ministers for exercise shall be moderated by the bishop if present, and if absent by any other minister whom he shall appoint at the synod.—James VI, 1612.

Episcopal form of church government abolished, and all civil power conferred upon ecclesiastical persons declared unlawful, 1640-4.—*Vide* Vol. I, p. 14.

The state of bishops restored to their ancient places and undoubted privileges in parliament, and to all other accustomed dignities, privileges, and jurisdictions; and to the exercise of their episcopal functions, presidence in the church, power of ordination, inflicting of censures, and all other acts of church discipline which were to be performed with advice and assistance of such of the clergy as were of known prudence and loyalty.—Charles II, 1662.

A national synod or assembly constituted, and the members of whom it is to consist, and the matter of which it is to treat, appointed.—Charles II, 1663.

Prelacy abolished.—William and Mary, 1689.—*Vide* Vol. I, p. 22.

The presbyterian church government and discipline ratified and confirmed.—William and Mary, 1690.—*Vide* Vol. I, p. 24.

The presbyterian form of church government and discipline further ratified and confirmed.—William, 1700. Queen Anne, 1702 and 1703.

The same established and confirmed.—Queen Anne, 1707.—*Vide* Vol. I, p. 26.

## JURISDICTION OF THE CHURCH.

The examination and admission of ministers declared to be only in the power of the kirk now openly and publicly professed within this realm.—James VI, 1567.

All schools to burgh and land, all universities and colleges appointed to be reformed, and that none be admitted to have charge and cure thereof in time coming, nor to instruct the youth privately or openly, but such as shall be tried by the superintendants and visitors of the kirk.—James VI, 1567.

The jurisdiction of the kirk declared to consist in the preaching of the true word of Jesus Christ, correction of manners, and administration of the holy sacraments; and that there is no other face of kirk, nor other face of religion, than is presently by the favour of God established within this realm; and that there is no other jurisdiction ecclesiastical acknowledged than that which is, and shall be within the same kirk.—James VI, 1579.

As the jurisdiction and judicatures of the church are confirmed and established in general assemblies, in synods, in presbyteries, and in the particular sessions of every kirk and parish; and as a number of obstinate and stubborn people in different parishes of the land have contemned and daily condemn the sentences of said assemblies and judicatures of the kirk, especially in landward parishes where there is little or no concurrence of magistrates to punish obstinate and disobedient persons; therefore it is ordained, that, in case any of the subjects within this realm, refuse to obey the decreets of said assemblies and judicatures in any time to come, the said judicatures shall direct their beedle to the person or persons disobedient, charging and commanding them, in the name of God and of

the king, to obey their decret; and if the said charge be contemned, the minister of the parish where the person or persons so doing reside, shall three several Sabbath days, from the pulpit, charge and command them, in the name of God and of the king, to obey. And if the person or persons so charged remain still obstinate and rebellious, then shall the assembly of judicature, which has made the decret, refer the matter to the Lords of Session by their supplication, containing the substance of the process; and, if the party complained of compear not after citation, the Lords of Session or Secret Council shall give out letters to put him to the horn within ten days after the charge.—James VI, 1593.

All schoolmasters and teachers of youth in schools shall be liable to the trial, judgment, and censure of the presbyteries of the bounds for their sufficiency, qualifications, and deportment in said office.—William and Mary, 1693.

### KIRK AND KIRK-YARD.

Parish kirks, after being sufficiently mended in windows, thack, and other necessaries, appointed to be upholden upon the expenses of the parishioners and parson in manner following; the two-part of the expenses thereof to be made by the parishioners, and third part by the parson, and that the same might take effect, letters appointed to be directed to the officers of the queen, sheriffs in that part, to pass and charge the parishioners of the parish kirks within the realm, to elect and chuse certain of the most honest qualified men within their parishes, to tax every one of them according to their substance, for furnishing of the two-part of the expenses to be made in bigging and repairing of their said parish kirk.—Secret Council, 13th September 1563.

As the act of Secret Council for upholding and repairing of kirks had not been executed in any place, the same ratified and approved by parliament, and the archbishop, bishop, superintendant, or commissioner of the kirks in

time of their visitation, appointed to nominate in every parish persons for making and setting of the taxation, and for receiving the same.—James VI, 1572.

The parishioners of every parish kirk within the realm, appointed to build and repair the kirk-yard dykes of their own parish kirk with stone and mortar to the height of two ells, and to make sufficient stiles and entries; and the Lords of Session to direct letters and charges thereupon as effairs.—James VI, 1597.

Whatever person or persons who commit slaughter within any kirk or kirk-yard in the time of the prayer, preaching, or ministration of the sacraments, being denounced rebel, or declared fugitive for the same, the king shall have full power not only to dispoine of their simple escheat of moveables, but also of the liferent of all their lands, livings, tacks, tiends, rooms, possessions, &c.—James VI, 1587.

#### MANSE.

They who are appointed, or shall be appointed to serve and minister at any kirk in this realm, shall have the principal manse of the parson or vicar, or so much thereof as shall be found sufficient for staking of them; or that a reasonable and sufficient house be bigged to them beside the kirk, by the parson or vicar, or others having the said manse in feu or long tacks.—Queen Mary, 1563.

Declared, that the manses, either pertaining to the parson or the vicar, most adjacent to the kirk, and most commodious for dwelling, pertains, and shall pertain to the minister or reader serving at the same kirk; and failing thereof, a manse shall be designed by the archbishop, bishop, superintendant, or commissioner of the diocese, by the advice of any two of the most honest and godly of the parishioners, which manse so designed, and glebe, it shall not be lawful for the ministers or readers, present or to come, to sell, analzie, set in feu or tack, or to put any in possession of the same, to the prejudice of their successors;

but the same shall remain always free to the use and easement of such as shall be admitted to serve and minister at the said kirk.—James VI, 1572.

Former acts of parliament anent manses and glebes extend to all abbeys and cathedral kirks within the realm; so that the minister presently admitted, or who shall hereafter be admitted to the office or cure of the ministry within the said kirk, shall have a sufficient manse, and dwelling-place within the abbey where he serves, with special provision, that it shall be in the option of the abbots, priors, and other prelates and persons whatsoever, feuars of the said cathedral and abbey places, either to grant an manse to the minister, within the precincts of their place, or else an sufficient manse lying as commodious to the parish kirk.—James VI, 1592.

The feuars, possessors and tacksmen, out of whose lands the manses and glebes of ministers are designed, shall have their relief of the remanent parishioners who are feuars, possessors or tacksmen of kirklands, lying within the said parish *pro rata*.—James VI, 1594.

All archbishops, bishops, or other ecclesiastical persons ordained to build, repair, and maintain their houses and manses in such case as may serve for their dwelling, and the dwelling of their successors: and if they should suffer their manses to ruin and decay, their successors allowed to have action against their executors for the same. Where the said houses should be suffered to decay, or should be rebuilt and repaired by any beneficed person, his successor obliged to give satisfaction to the heirs and executors of the defunct, at the sight of two or three of the bishops within the province, providing that the same satisfaction did not exceed a thousand pounds if prelates, and five hundred merks if inferior ministers.—James VI, 1612.

As diverse ministers were not yet sufficiently provided with manses and glebes, therefore ordained, that where competent manses were not already built, the heritors of the parish, at the sight of the bishop of the diocese, or such ministers as he shall appoint, with two or three of the most knowing and discreet men of the parish, build com-

petent manses to their ministers, the expense of which should not exceed a thousand pounds, and not be beneath five hundred merks. Where competent manses were already built, the heritors of the parish ordained to relieve the minister and his executors of all cost, charges, and expenses in repairing the same, and declared, that the manses being once built and repaired, and paid by the heritors, the said manses shall thereafter be upholden by the incumbent ministers during their possession, and in time of vacancy by the heritors out of the readiest of the vacant stipend.—1649, 44 Charles II, 1663.

### MARRIAGE.

Whatsoever person or persons shall hereafter marry or procure themselves to be married in a clandestine and in orderly way, or by jesuit priests, or any other not authorised by this kirk, shall be imprisoned for three months ; and beside their said imprisonment shall pay, each nobleman one thousand pounds Scots ; each baron and landed gentleman one thousand merks ; each gentleman and burghess five hundred pounds ; each other person one hundred merks, and shall remain in prison ay and while they make payment of these respective penalties above mentioned, which are ordained to be applied to pious uses within the several parishes where the said persons dwell. The celebrator of such marriage shall be banished, and never again to return under pain of death. Those who have their ordinary residence in Scotland prohibited from getting themselves married with others within the kingdom of Ireland or England without proclamation of banns in Scotland under the pains following ; for each nobleman one thousand pounds ; for each landed gentleman one thousand merks ; for each burghess five hundred pounds ; and for each other substantial person five hundred merks ; for an yeoman one hundred pounds ; and for each person of inferior quality one hundred merks, the one half of which penalties to belong to the king's majesty, and the other to the parish or parishes where the

married persons resided. His majesty's advocate and procurator of the church appointed to pursue the contraveeners of this act before the civil judge. Poor persons who cannot pay to be punished with stocks and irons.—Charles II, 1661.

Whosoever shall be married by persons not lawfully ordained or authorised, shall lose any right they may have by that marriage to the *jus mariti*, or to the *jus relictæ*.—Charles II, 1672. Rescinded, William and Mary, 1690.

Parties clandestinely married, or irregularly, contrary to act 1661, must declare, when required, the names and designations of the minister, or person who celebrated the said clandestine or irregular marriages, and of such as were witnesses to the said marriages, with certification if they refuse, the parties so married shall pay, each nobleman two thousand pounds; each baron and landed gentleman two thousand merks; each gentleman and burgess one thousand pounds; each other person two hundred merks; to be applied to pious uses within the parishes where the said persons dwell, and further shall be imprisoned ay and while they declare who were the celebrators and witnesses of such marriages, and make payment of said penalties. The celebrators of said clandestine marriages shall be liable to be summarily seized and imprisoned by any ordinary magistrate, or justice of the peace, and shall be punishable by the Lords of Privy Council, not only by perpetual banishment, but by such pecunial or corporal pains as the said Lords shall think fit to inflict: and the witnesses to the said clandestine marriage shall be liable each of them in the sum of one hundred pounds Scots, to be applied to pious uses, or if insolvent, to such corporal punishment as the said Lords shall determine.—King William, 1698.

#### MINISTERS.

All civil privileges given formerly to kirkmen, ratified.—James VI, 1567.

Every person who shall pretend to be a minister of God's word, and sacraments, or who presently does, or shall pretend to have and bruik any benefice, stipend, pension or portion furth of any benefice, shall in the presence of the archbishop, superintendant, or commissioner of the diocese or province where he has or shall have the ecclesiastical living, give his assent and subscribe the articles of religion contained in the acts of our sovereign lord's parliament, and give his oath for acknowledging and recognoscing of our sovereign lord and his authority, and shall bring a testimonial in writing thereupon. And openly on some Sunday in time of sermon or publick prayers in the kirk where his ecclesiastical living is, shall read both the testimonial and confession, and of new make the said oath. And if any person ecclesiastical, or who shall have an ecclesiastical living, shall wilfully maintain any doctrines directly contrary, or repugnant to any of the said articles, and shall persist therein and not revoke his error, or after revocation, shall of new affirm such untrue doctrines, it shall be a just cause for depriving him of his ecclesiastical living, and it shall be lawful for them before whom he is convened to deprive him, which sentence of deprivation pronounced, his living shall become vacant as if he were naturally dead.—James VI, 1572.

Every parish kirk, and such bounds as shall be a competent parish for the same, ordained to have their own pastor, with a sufficient and reasonable stipend, according to the state and ability of the place.—James VI, 1581.

No person being in the function of the ministry, shall dispoise pensions, or make other dispositions of the rents of his benefice, to the prejudice of his successor, and diminution of the rental whereat he finds it upon his entry, under the pain of deprivation from the said benefice.—James VI, 1581.

That the word of God may be preached, and the sacraments administered in purity, and that the rents whereon ministers ought to be sustained be not possessed by unworthy persons; ordained that all parsons, ministers, or readers, or others provided to benefices, suspected



culpable of heresy, papistry, false and erroneous doctrine, common blasphemy, fornication, common drunkenness, non-residence, plurality of benefices having cure, simony or dilapidation of the rents of benefices, being lawfully and orderly called, tried and adjudged culpable in the vices and causes above written, or any of them, by the ordinary bishop of the diocese, or others the king's majesty's commissioners, shall be deprived, as well from their functions in the ministry, as from their benefices: and it shall be judged non-residence where the person being in the function of the ministry, makes not his residence at his manse, if he have any, and failing thereof at some other dwelling place within the parish, but shall remain absent therefrom, and from his kirk, by the space of four Sabbath days in the whole year, without lawful cause allowed by his ordinary.

Where any person is admitted to more benefices having cure, the acceptation of the last shall be sufficient cause of deprivation from the remanent. Also persons in the function of the ministry who shall happen to be lawfully and orderly convicted before our sovereign lord's justice general, or other judges competent, of capital crimes, such as treason, slaughter, mutilation, adultery, incest, theft, common oppression, usury against the laws of the realm, and perjury, and being lawfully and orderly deprived from their function in the ministry by their ordinary or king's commissioners in ecclesiastical causes, shall be deprived of their benefices.—James VI, 1584.

Ordained that all ministers shall attend upon their own charges and vocation, to the comfort and edification of the flocks committed to them; and that none of them presently in the ministry, or who shall hereafter be admitted thereto, and shall in any way accept, use or administer any place of judicature, in whatever civil or criminal causes, neither be of the college of justice, commissioners, advocates, court clerks, or notars in any matters (the making of testaments only excepted), under the pain of deprivation from their benefices, livings, and function.—James VI, 1584.

Ecclesiastical persons required to find surety that they shall leave their benefices at their decease and dismission, unhurt or vitiated in the quantity of yearly rent thereof; and in case any of the said persons provided to the said benefices shall happen to do otherwise, and by any feus, tacks, pensions, or charging of victual for money, or any other disposition, shall make their benefice in worse state than the same was at their entry thereto, such setting and disposition shall be of no avail, force or effect.—James VI, 1585.

Whatsoever person shall invade any minister, or put any violent hands on him, for seeking his living, or for discharge of his duty, shall be punished for the same with all rigour, and incur the pains of losing all their moveable goods, albeit no slaughter or mutilation follow thereupon. The one half of said moveable goods to be applied to the sovereign's use, and the other to the use of the party offended.—James VI, 1587.

Sentence of deprivation pronounced by any presbytery, synodal or general assemblies, ordained to have the effect of depriving from the profits, commodities, rents, and duties of the benefice; and to be sufficient cause for making the said benefice vacant; and the said sentence being extracted and presented to the patron, he shall be bound to present a qualified person of new to the kirk, within the space of six months, which if he fail to do, the right of presentation for that time shall be devolved into the hands of the presbytery within which the benefice lies.—James VI, 1592.

Appointed, that every preacher of God's word hereafter shall wear black, grave, and comely apparel, beseeeming men of their state and profession.—James VI, 1609.

The act of James VI, 1587, against invaders of ministers, ratified and approved, and extended to all archbishops, bishops, and ministers whatsoever, having power by lawful warrant to preach, and administer the sacraments.—Charles I, 1633, and Charles II, 1669.

Each minister who shall blaspheme, swear, or curse, or who shall drink to excess, shall be fined in the fifth part

of his year's stipend, to be uplifted and disposed upon as appointed by the act and instructions anent justices of the peace.—Charles II, 1661.

Attempting the lives of ministers, robbing their houses, or actually attempting the same, shall be punished with death, and confiscation of moveables.—Charles II, 1670, James VII, 1685.

That no person be admitted or continued hereafter to be a minister or preacher within this church, unless that he, having first taken and subscribed the oath of allegiance, and subscribed the assurance, do also subscribe the Confession of Faith, declaring the same to be the confession of his faith, and that he owns the doctrine therein contained to be the true doctrine which he will constantly adhere to. As likewise that he owns and acknowledges presbyterian church government to be the only government of this church, and that he will submit thereto, and concur therewith, and never directly or indirectly endeavour the prejudice or subversion thereof.—William and Mary 1693.

Every minister and preacher, as well of the established church of Scotland as of the episcopal communion, shall, during the exercise of divine service, pray in express words for the queen and all the royal family, under the penalties of twenty pounds sterling, for the first offence, and of deprivation for three years for the second.—10 Anne, 6.

## PATRON; AND RIGHT OF PRESENTATION.

Presentation to laick patronages reserved to the just and ancient patrons, who are required to present a qualified person within six months (after the decease of him who bruiked the benefice before, comes to their knowledge), to the superintendent of these parts where the benefice lies, or to others having commission of the kirk to that effect: otherwise the kirk to have power to dispose the same to a qualified person for that time. Provided that in case the person present an person qualified, and failing one, another within the six months, and the said

superintendent or commissioner of the kirk refuse to receive and admit the person presented by the patron, it shall be lawful for the patron to appeal to the superintendent and ministers of that province where the benefice lies; and if they refuse to admit the person presented, it shall be lawful for the patron to appeal to the General Assembly of this whole realm, by whom the cause shall be finally decided.—James VI, 1567.

All benefices of cure under prelacies shall be presented to, by our Sovereign Lord and laick patrons, in favour of able and qualified ministers.—James VI, 1581.

All presentations to benefices in time coming, appointed to be directed to particular presbyteries, with full power to give collation thereupon; and the said presbyteries bound and astricted to receive and admit whatever qualified minister was presented by his majesty or laick patrons.—James VI, 1592.

All presentations hereafter shall be directed to the archbishop or bishop of the diocese, within which the vacant benefice lies; providing always, that in case the archbishop or bishop refuse to admit any qualified minister, who has accepted the presentation, and who has once been received into the function of the ministry, and remains undeprived of it, it shall be lawful for the patron to retain the whole fruits of the benefice. And the parish wanting a pastor may complain to the archbishop, and if the archbishop gives no redress, in that case the lords of his majesty's privy council, upon the parties complaint, shall direct letters of horning, charging the ordinary to do his duty, in receiving and admitting such a person as the said patron has presented. The archbishop or bishop allowed to refuse any such person who is presented to him, and who by clear proof is found to have come within the compass of a simonaical paction with his patron, in so far as he hath already hurt, or promised and bound himself to hurt the state of the benefice, in not reserving a sufficient maintenance for himself or his successors.—James VI, 1612.

The power of presenting ministers taken from the patrons; and in place of it the free teinds within every

parish settled upon them under the condition of selling the same to the heritors at six years purchase.—1649, 39.

Ordained that all patrons or persons whatsoever, who hath, or who pretends any right to the presentations to any patronages, vicarages, or other benefices of cure, kirks, or modified stipends, be careful to grant presentations to such persons only as shall give sufficient evidence of their piety, loyalty, literature, and peaceable disposition; and shall, in presence of the patron or his attorney, and of the sheriff of the shire, steward of the stewartry, or heritable bailie, or commissary of the bounds, if it be in the country, and of the magistrates of the burghs, if within burgh, before the granting and their accepting the presentation, take and subscribe the oath of allegiance, the said sheriff, steward, bailie, commissary, and magistrates, having first taken the oath themselves; and if any person who hath not so taken the oath of allegiance, shall be presented by any patron, not only shall the presentation be void and null of itself, but the right of the patronage as to that vacancy shall belong to his majesty.—Charles II, 1661.

Patrons restored to the possession of their advocations, donations, and patronages.—Charles II, 1662.

The right of presentation taken from patrons, and ordained, that in case of the vacancy of any particular church, the heritors of the said parish being protestants and elders, are to name and propose the person to the whole congregation, to be either approved or disapproved by them; and if they disapprove, that the disapprovers give in their reasons, to the effect the affair may be cognized upon by the presbytery of the bounds, at whose judgment the calling and entry of a particular minister is to be concluded. And if application be not made by the eldership and heritors of the parish for the call and choice of a minister within six months after the vacancy, then the presbytery may proceed to provide the said parish, *tanquam jure devoluto*. The calling of ministers to royal burghs, where there is no landward parish, to be by the magistrates, town-council, and kirk-session of the burgh, as was the case before 1660. But where a consi-

derable part of the parish is in landward, the call shall be by the magistrates, town-council, kirk-session, and heritors of the landward parish. In recompence of the said right of presentation, ordained, that the heritors and liferenters of each parish, and the town-councils for the burgh, pay to the said patrons the sum of six hundred merks proportionally, effeiring to their valued rents in the said parish, viz. two parts by the heritors, and a third part by the liferenters, deducing always the patron's own part, effeiring to his proportion as an heritor; and that upon the said patron's granting a sufficient and formal renunciation of the said right of presentation in favour of the said heritors, town-council for the burgh, and kirk-session.—William and Mary, 1690.

Enacted, That the right of the teinds of the parishes which are not heritably disposed, shall belong to the patron, with the burden always of the minister's stipends, tacks, and prorogations already granted of the teinds, and of such augmentations of stipends, future prorogations, and erecting of new kirks, as shall be found just and expedient.—William and Mary, 1690.

The above act repealed so far as it relates to the presentation of ministers by heritors and others therein mentioned; and declared lawful for patrons who have not subscribed a formal renunciation of their right, to present a qualified minister, whom the presbytery is obliged to receive and admit in the same manner as those presented before the making of this act ought to have been admitted. Every patron, at his signing of a presentation, obliged to take the oath of abjuration, otherwise the presentation to be void and null, and the right of presenting and of disposing the vacant stipend to belong for that time to her majesty.—10 Anne 11.

Where the patron delays for six months after a vacancy, to present a qualified minister, the right of presentation shall belong to the presbytery for that vacancy, *tanquam jure devoluto*.—10 Anne 11.

If a patron shall present to a vacant church any person who is not qualified by having taken the oaths to government, or shall present a person who is minister of any other

church or parish, or a person who shall not accept, or declare his willingness to accept of the presentation and charge to which he is presented, such presentation shall not be accounted any interruption of the course of time allowed to the patron for presenting, but the *jus devolutum* shall take place as if no such presentation had been offered.—5 George I, 28.

## POOR.

An inquisition appointed to be made concerning all aged poor, impotent, and decayed persons, in every parish, who were born in it, or who have had their most common residence in it for the last seven years past, and a register book to be made containing their names, which shall remain with the provost and bailies in burgh, and with the justice in every parish to landwart: ordained that houses be provided for such poor people, either separately or with others, and that the whole inhabitants of the parish be taxed and stented according to their substance for such weekly charge and contribution, as shall be thought sufficient to sustain the said poor people: That collectors be yearly appointed for collecting and receiving the said taxation, and for distributing the same, by the orders of the said magistrates and judge: That the stent roll be renewed every year, because of the alterations that may happen. Such of the poor as are not altogether disabled, shall be put to work by the overseers of the poor, to be named along with the collectors by the said magistrates and judge, and if they refuse to work, they shall be scourged, and put in the stocks; and, for the second fault, shall be punished as vagabonds.—James VI, 1579.

The above act ratified, and in case the sheriffs or other judges be found negligent, power given to the ministers, elders, and deacons within the bounds of every parish to nominate one or two, or more persons, who are appointed justices and commissioners to the effect of executing the said act of parliament.—James VI, 1592.

The acts of parliament formerly made against strong beggars and Egyptians, ratified ; and in place of several commissions in landward, which were to be granted by the king for the execution thereof, power granted to the particular session of the kirk for that purpose.—James VI, 1597.

To the effect his majesty may be the better assured of the care and diligence of the kirk session in the execution of the said act of parliament, the haill presbyteries within the realm appointed to take trial of the respective kirk sessions, and to report the same to his majesty's ministers ; and the penalty of £20 to be exacted from every kirk session, so often as found negligent.—James VI, 1600.

The justices appointed twice a year on the first of December, and the first of June, to take up a list of the poor in every parish ; and in every parish shall appoint two or more overseers of the poor, who are to inrol all persons truly indigent, to provide them convenient houses, and upon considering what the necessary maintenance will extend to weekly, to call for the collections of the parish, or other sums appointed for the maintenance of the poor, to be distributed by them among the inrolled poor, as their necessities may require it. The justices empowered once every six months, to call before them the overseers, and to take account from them how they have discharged their trust.—Charles II, 1661.

Considering that the chief cause why the acts about the poor have proved ineffectual, and that vagrants and idle persons do yet so much abound, hath been that few or no common works were then erected, and that now common works for manufactures of divers sorts are setting up in this kingdom ; therefore declared lawful to all persons or societies who have, or shall set up any manufacture, to seize and apprehend any vagabonds who shall be found begging, or who, being masterless and out of service, have not wherewith to maintain themselves by their own means and work, and to employ them for their service as they shall see fit ; the same being done with the advice of the respective magistrates of the place where



they shall be seized ; and ordains the parishes where such idle persons as shall be found begging, were born, or where they have had any residence, haunt, or most resort for the space of three years immediately preceding their being so apprehended, to make payment to the persons or societies who shall happen to employ them, of two shillings Scots per diem for the first year after they are apprehended ; and of one shilling Scots for the next three years : the one half thereof to be paid by the heritors of the several parishes respectively, and the other half to be paid by the possessors and inhabitants dwelling upon the ground of each heritor respectively.

Further, the heritors of each parish, or as many of them as happen to meet, upon public intimation made at the parish kirk upon any Sabbath at the dissolving of the congregation from the first sermon, by any of the heritors of the parish, or by the employers of the poor, are ordained to make up a stent roll for maintenance of the poor of the parish who shall be employed as said is, at the rate foresaid ; the one half to be paid by the heritors, either according to the old extent of their lands, within the parish, or according to the valuation by which they last paid assessment, or otherwise as the major part of the heritors so meeting shall agree ; wadsetters and liferenters during their rights, being liable as heritors ; and the other half to be laid upon the tenants and possessors, according to their means of substance ; and in case the said heritors, being required by any person or society employing the poor as said is, shall fail to make up and deliver a stent roll in manner foresaid, the said person or society are empowered to charge the heritors of each parish for two shillings Scots per diem for each one of their poor, whereof they shall be relieved in manner foresaid ; which stent roll shall continue for one year after the making up thereof, either by the heritors, or by the person or society employing the poor ; and shall be renewed from year to year during the years above written.—Charles II, 1663.

To the end it might be known what persons were to be sent to correction houses, and who were to be enter-

tained by the contributions at the parish kirks for the poor, the ministers of every parish; with some of the elders, and in case of vacancy, three or more of the elders; ordered to take up an exact list of all the poor persons within their parishes, by name and surname, condescending upon their age and condition, where they were born, and in what parishes they have most haunted during the last three years preceding the uptaking of these lists: intimation being always made to the whole heritors of the parish to be present, and to see the lists taken up; that the heritors and the possessors of their land, who are to bear the burden of the maintenance of the poor persons of each parish, or any of them who shall meet with the said ministers and elders may condescend upon such as through age and infirmity are not able to work, and appoint them places wherein to abide, that they may be supplied by contributions at the parish kirk. And if the same be not sufficient to entertain them, that they give them a badge or ticket to ask alms at the dwelling houses of the inhabitants of their own parish only. And in case any heritors shall find within their bounds any other vagabonds, beggars or idle persons not being in service, not having any visible way or stock to entertain themselves, who were not born, nor did haunt formerly within their bounds, they are hereby empowered to seize upon such persons, and to send them to the correction houses, and to charge the magistrates or masters of said houses to receive them, without advance of any allowance: with power notwithstanding to the said magistrates or masters, to charge the heritors of the parishes where these idle persons were born, or have most haunted the last three years, for the allowance of such of them as are not bred to work.—Charles II, 1672.

The heritors, minister and elders of every parish, required to make a list of all the poor within the parish, to liquidate yearly a sum for their maintenance, the one half to be paid by the heritors, the other half by the other house-holders, with power to appoint two overseers yearly for collecting the said maintenance. Such poor as are not provided with houses, to be provided at the expense of

the parish : And the heritors to put to work any of the poor who can work, either within the parish or in any adjacent manufactory. The heritors, minister and elders of every parish appointed to meet the first Tuesday of February, and the first Tuesday of August yearly to consult and determine in the above matters for every ensuing half year ; and to appoint overseers by the year or half year as they shall think fit.—Privy Council, 1692.

The half of the collections at the church door to be paid to the heritors, or to any by them appointed, and to be applied towards the maintenance of the poor.—Privy Council 1693, 29th August.

Whoever shall give alms to any beggar not of the parish and shall not seize the same to be sent back to his own parish, shall, by the overseers be fined in twenty shillings to be applied to the use of the poor.—Privy Council 1692.

Acts of parliament and proclamations of council for repressing beggars revived and approved.—William 1695 and 1698.

### POPE.

Ordained that the Bishop of Rome, called the Pope, have no jurisdiction or authority within this realm, in any time coming.—James VI, 1567.

### SCHOOLS AND SCHOOLMASTERS.

Enacted that all schools to burgh and land, and all universities and colleges be reformed : and that none be permitted to have charge and cure thereof in time coming, nor to instruct privately or openly, but such as shall be tried by the superintendents or visitors of the church.—James VI, 1567.

The act of council of 10th December 1616, ratified, and the bishops in their several visitations appointed to have power with consent of the heritors, and most part of

the parishioners ; and if the heritors being lawfully warned, refuse to appear, with consent of the most part of parishioners, to set down and stent a sum upon every plough, or husband land, according to the worth, for maintenance and establishing the said schools ; and if any person shall find himself aggrieved, it shall be lawful for him to have recourse to the lords of secret council for redress.—Charles I, 1633.

That no professor, principal, regent, master, or others bearing office in any university, college, or school within this kingdom be admitted or allowed to continue in the exercise of their functions, unless they shall subscribe the confession of faith, swear and subscribe the oath of allegiance, be of pious, legal, and peaceable conversation, and of good and sufficient literature.—William, 1690.

Appointed that there be a school settled and a schoolmaster established in every parish by the advice of the minister and heritors of the parish ; and that the heritors in every parish meet and provide a commodious house for a school, and settle and modify a salary to a schoolmaster which shall not be under one hundred merks, nor above two hundred, to be paid yearly at the two terms of Whitsunday and Martinmas ; and that the said salary be laid on conformably to every heritor's valued rent within the parish, allowing each heritor relief from his tenants of the half of his proportion : which salary is declared to be by and attour the casualties which formerly belonged to the readers and clerks of the kirk-session. And if the heritors or major part of them shall not convene, or being convened, shall not agree among themselves, then the presbytery shall apply to the commissioners of the supply of the shire, who, or any five of them, shall have power to establish a school, and settle a salary for the schoolmaster, not under one hundred merks, nor above two hundred yearly. All suspensions of their salaries discharged to pass against schoolmasters, except upon consignation, or a valid discharge ; and if the same be past, that the lords discuss it summarily without abiding the course of the roll.—William 1696.

Whereas the parish schoolmasters in Scotland are a

most useful body of men, and their labour has been of essential importance to the public welfare : And whereas by an act passed in the parliament of Scotland, in the reign of King William the Third, in the year 1696, intituled, *Act for settling of Schools*, it is, *inter alia*, statuted and ordained, that there be a school settled and established, and a schoolmaster appointed in every parish not already provided, by advice of the heritors and minister of the parish ; and for that effect, that the heritors in every parish meet and provide a commodious house for a school, and settle and modify a salary to a schoolmaster, which shall not be under one hundred merks, nor above two hundred merks Scots, to be paid yearly, at two terms, Whitsunday and Martinmas, by equal portions ; and certain rules and regulations were laid down by the said act, relative to the apportioning and payment of the said salary by the heritors of the parish : And whereas the highest salary by the said act granted, amounting only to eleven pounds two shillings and two-pence two-thirds of a penny sterling, which by difference in the value of money, and change in the circumstances of the country, has become a provision altogether inadequate for a body of men whose labours are of so great public utility : May it therefore please your majesty that it may be enacted ; and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the term of Martinmas next, the salary of each parochial schoolmaster in every parish of Scotland, shall not be under the sum of three hundred merks Scots per annum, nor above the sum of four hundred merks Scots per annum, except in the cases herein after mentioned.

§ 2. And be it further enacted, That within three months after the passing of this act, the heritors possessed of the qualification required by this act, and the minister of every parish, shall hold a meeting, of which intimation shall be given from the pulpit immediately after divine service in the forenoon, and by circular letters, to

be written by the minister of the parish, to such heritors having the qualification prescribed by this act, who are non-resident, and also by leaving a written notice at the mansion-house of every heritor, whether resident or not, at least thirty free days before such meeting shall take place; and on due consideration of the circumstances of the particular parish in respect of extent, population, and valued rent, and the probable amount of the other emoluments of the schoolmaster's office, such meeting shall judge and determine whether the schoolmaster's salary shall be three hundred merks Scots per annum, or four hundred merks Scots per annum, or such sum between these two sums as to such meeting shall seem most suitable to the circumstances of the parish, and shall fix and determine the amount of the schoolmaster's salary, to be paid to the schoolmaster, by a resolution to be made at such meeting, a copy of which resolution, signed by the preses of the meeting, shall be delivered to the schoolmaster of the parish as his authority for collecting and receiving the salary thereby fixed and determined, which shall be paid by the several heritors at the same terms apportioned among them, in the same manner, and with the same relief against their tenants, as is provided by the aforesaid act of the parliament of Scotland, passed in the year one thousand six hundred and ninety-six: Provided always, that no salary at present payable to any schoolmaster shall be diminished; and in all cases where any such salary, or any part thereof, is payable in grain or meal, such salary in grain or meal shall continue to be paid and payable in the same manner as heretofore, with such additions thereto in money as to such meeting shall seem proper; and in fixing and determining the amount of the salary to be paid pursuant to this act, such grain or meal making part of such salary shall be estimated at the rate of two hundred merks per chalder.

§ 3. And be it enacted, That the salaries so fixed and determined in manner above directed, shall continue to be the salaries payable to the schoolmaster of every parish, for and during the period of twenty-five years from and after the passing of this act; and within three years

after the expiration of twenty-five years from the passing of this act, the sheriff or steward of every county, or stewartry, shall fix and determine according to the average amount of the fiars of the county or stewartry, for the twenty-five years preceding, what is the value or average price of a chalder of oatmeal, and he shall make a return of such average to the office of king's remembrancer in Exchequer in Scotland; and the Lord Chief Baron and Barons of Exchequer are hereby empowered and required, from such returns by the sheriffs and stewarts of Scotland, to strike the average price of a chalder of oatmeal for all Scotland; and an order of the said Court of Exchequer, fixing such average, shall, within three months from the date of the last return by the sheriffs and stewarts, be published by the king's remembrancer in the Edinburgh Gazette, and such other Scots newspapers as he shall deem sufficient, for three successive weeks, and a copy thereof shall also be transmitted by the said remembrancer to the sheriff or steward clerk of every shire or stewartry in Scotland; which average so ascertained shall be the rate according to which the schoolmaster's salary shall be fixed in the manner herein after directed, and the sheriff or steward clerk shall transmit a certificate thereof, signed by him, to the minister of each parish within the county or stewartry, to be by him submitted to the meeting directed to be called in manner immediately after mentioned.

§ 4. And be it enacted, That within three months after the date of such certificate, the heritor possessed of the qualification required by this act, and the minister of every parish in Scotland, shall hold a meeting, of which intimation shall be given from the pulpit immediately after divine service in the forenoon, and by circular letters, to be written by the minister of the parish to such heritors having the qualification prescribed by this act, who are non-resident, and also by leaving a written notice at the mansion-house of every heritor, whether resident or not, at least thirty free days before such meeting shall take place; and on due consideration of the circumstances of the particular parish in respect of extent,

population, and valued rent, such meeting shall judge and determine whether the schoolmaster's salary of the same shall be equal to the average price of one chalders and a half, or of two chalders of oatmeal, according to the amount thereof, ascertained by the aforesaid certificate, or to such proportion between them as to such meeting shall seem most suitable to the circumstances of the parish, and shall fix and determine the amount of the schoolmaster's salary to be paid pursuant to such average, and their resolution thereupon; a copy of which resolution, signed by the preses of the meeting, shall be delivered to the schoolmaster of the parish, as his authority for collecting and receiving the salary thereby fixed and determined, which shall be paid to him by the several heritors at the same terms apportioned among them, in the same manner, and with the same relief against their tenants, as is provided by the aforesaid act of the parliament of Scotland, in the year one thousand six hundred and ninety-six.

§ 5. Provided always, and be it enacted, That in case the heritors and minister shall neglect or refuse to determine the amount of the salary to be paid to the schoolmaster according to the provisions of the act; or, in case any heritor or the schoolmaster shall be dissatisfied with the determination made, it shall be competent, within three months after such meeting ought to have been held, or such determination shall have been made, for the schoolmaster to apply, or for such person so dissatisfied to appeal to the next quarter sessions held for the shire or stewartry within the bounds of which the parish or parish kirk lies, whose judgment shall be final; and no appeal by advocation, suspension, or otherwise, shall be admitted against the judgment given at such quarter sessions: Provided always, that no heritor of the parish from whence such appeal comes shall vote upon such appeal at such quarter sessions.

§ 6. Provided always, and be it enacted, That after twenty-five years shall have elapsed from the time the amount of a schoolmaster's salary shall have been so fixed, the sheriff of a shire, steward of a stewartry, shall,



within three months, again determine the average price of a chalder of oatmeal in the manner directed by this act; and shall, as above directed, return the same to the office of king's remembrancer in exchequer, and the Lord Chief Baron and Barons of Exchequer shall again, by an order of court, fix the average price for all Scotland; and the king's remembrancer shall again transmit a copy of said order of court to the sheriff or steward clerk of each shire or stewartry, and the said sheriff or steward clerk shall again publish the same in the Edinburgh Gazette and Scots newspapers, and transmit a certificate of said average and order of court to the minister of each parish within his shire and stewartry, and the heritors and ministers shall again fix and determine the schoolmaster's salary according to such average, such salary never being less than the value of one chalder and an half, nor more than two chalders for the next twenty-five years, and so *toties quoties* at the end of every twenty-five years for ever, unless altered by parliament; and every such determination of salary shall be liable to appeal to the quarter sessions, in manner and to the effect above directed.

§ 7. Provided always, and be it enacted, That in every parish where there is only one heritor qualified, as herein after prescribed, such heritor shall have two votes at every meeting directed to be held pursuant to this act; and in all meetings where no preses has been chosen, the heritor present possessed of the highest valuation shall have the casting vote.

§ 8. And be it further enacted, That in every parish where a commodious house for a school has not already been provided, pursuant to the directions in the above recited act, and in every parish where a dwelling-house for the residence of the schoolmaster has not already been provided, together with a portion of ground for a garden to the extent hereafter mentioned, the heritors of every such parish shall provide a commodious house for a school, and also a house for the residence of the schoolmaster, such house not consisting of more than two apartments including the kitchen, together with a por-

tion of ground for a garden to such dwelling-house, from fields used for the ordinary purposes of agriculture or pasturage, as near and convenient to the schoolmaster's dwelling-house as reasonably may be, which garden shall contain at least one-fourth part of a Scots acre, and shall be inclosed with such fence as is generally used for such purposes in the district of the county where it is situated; and the expense of providing such school-house, dwelling-house, and garden, and supporting the same, shall be defrayed and paid in the same and like manner as is prescribed for providing a house for a school by the aforesaid act of the parliament of Scotland: providing always, that where the heritors shall determine that such garden cannot be allotted to the schoolmaster without great loss and inconvenience, it shall be optional to them, with the authority of the quarter sessions of the county or stewartry, to assign to the schoolmaster, in lieu of such garden, an addition to his salary, at the rate of eight bolls of oatmeal per acre, to be computed according to the average ascertained in manner herein before directed.

§ 9. And be it further enacted, That in case the heritors shall neglect or refuse to provide the accommodations of house, school-house, and garden, or additional salary in lieu thereof, to schoolmasters, according to the provisions of this act, or in case the schoolmaster shall not be satisfied with the accommodations afforded him, it shall be competent for him to bring the same by representation or petition before the quarter sessions held for the shire or stewartry to which the parish of which he is schoolmaster belongs, or in which the parish kirk is situated; and in all such cases the judgment of the quarter sessions shall be final, without any further appeal by advocacy, suspension, or otherwise: Provided always, that no justice of the peace who shall be an heritor in the parish of such schoolmaster shall vote upon such representation or petition.

§ 10. Provided always, and be it enacted, That the heritor or heritors from whose estates any ground shall be taken for the purpose of such school-house, dwelling-house, and garden, shall have his, her, or their relief

against the other heritors of the parish, for the value of the ground so to be taken in proportion to the valued rent of the lands belonging to the whole heritors in the parish; such relief to be settled only by the sheriff or steward of the county or stewartry, without appeal by advocacy, suspension, or otherwise.

§ 11. And be it enacted, That in case of those parishes which consist of districts detached from each other by the sea or arms of the sea, or otherwise, as where a parish consists of two or more islands, of which there are several instances in the Highlands, North Isles, and Hebrides, or where it is otherwise of great extent or population, so that one parochial school cannot be of any effectual benefit to the whole inhabitants of such parishes, it shall be competent to the heritors and minister, if they shall see cause, on fixing a salary of six hundred merks, or the value of three chalders of oatmeal, to be computed according to the provisions of this act, to divide the same among two or more teachers according to the extent and population of the parish; and these proportions so divided shall be paid to teachers of schools in the same way and manner, and under the same conditions, as hereafter are specified by this act, for supplying vacant parochial schools with masters; but in respect that the heritors of such parishes are to pay any higher salary, they are hereby exempted from the obligation of providing school-houses, dwelling-houses, and gardens, for the teachers among whom the salary is to be divided in the manner aforesaid; and in case a difference of opinion shall arise among the heritors respecting the propriety and usefulness of such division of the salary, the same shall be submitted by petition or representation to the quarter sessions of the shire or stewartry within the bounds of which the parish or parish kirk is situated; and the judgment thus obtained shall be final, without appeal by advocacy, suspension, or otherwise.

§ 12. Provided always, and be it enacted, That none of the provisions of this act shall apply to the case of a parish, which consists only of a royal burgh, or part of a royal burgh.

§ 13. And be it further declared, That where a parish consists of a royal burgh, or part of a royal burgh, and a landward heritor or heritors, the schoolmaster shall be appointed and maintained by the burgh, or by the landward heritor or heritors, or by the burgh and landward heritors, in the same way and manner, and according to the same proportions that have hitherto been observed in such parish; the salary and accommodations being always equal in value to those provided by this act, and the same remedy being allowed in case they are otherwise, and to be applied for in the manner already specially pointed out; and provided any additions shall be granted, the same shall be paid in the same proportions by the parties from whom the present salary is received.

§ 14. And be it enacted, That from and after the passing of this act, in case of vacancy in the office of schoolmaster, by death or otherwise, the minister of the parish shall, within fifteen days, intimate, or cause to be intimated from the pulpit, immediately after divine service in the forenoon, the vacancy which has taken place, and communicate the knowledge of the same by letter to such heritor or heritors as may be non-resident; and the heritors possessed of the qualification required by this act, with the minister of the parish, are hereby appointed to hold a meeting, of which intimation shall be given by the minister, by edictal citation and circular letters to such as are non-resident, at least thirty free days before it takes place; and such meeting, or adjourned meeting, shall elect a person to the vacant office of schoolmaster; and in the event of the parish being vacant, the presbytery shall appoint some one of their number to make the intimations, and give the notices which, according to the provisions of this act, the minister is required to do.

§ 15. Provided always and be it enacted, That if the heritors qualified as is hereby required, and minister, shall fail to elect a schoolmaster within four calendar months from the time the vacancy shall have taken place, then the presbytery within the bounds of which the parish is situated, shall apply to the convener of the commissioners of supply of the county or stewartry, who, or

any five of them, at a meeting to be called by the convener upon thirty days notice, shall have power, *jure devoluto*, and are hereby directed to elect a person to supply the vacancy.

§ 16. And be it further enacted, That every school-master elected under the provisions of this act, shall carry the minutes, or an extract or certified copy of the minutes of his election to the presbytery, accompanied with attestations of his having taken the oath to his majesty before any one of his majesty's justices of the peace; and the presbytery shall thereupon take trial of his sufficiency for the office, in respect of morality and religion, and of such branches of literature as by the majority of heritors and minister shall be deemed most necessary and important for the parish, by examination of the presentee, by certificates and recommendations in his favour, by their own personal inquiry or otherwise, and shall see him sign the confession of faith and formula of the Church of Scotland; and their judgment or determination as to the qualifications of such presentee for the office of school-master shall not be reviewed or suspended by any court, civil or ecclesiastical; and provided they are satisfied with the same, he shall be furnished with an extract from their minutes, bearing that he had appeared, produced the attestations required, and had been found on trial duly qualified for discharging the duties of the office to which he had been elected, which extract shall complete his right to the emoluments provided by this act.

§ 17. Provided always, and be it enacted, That in case the person elected is not found duly qualified, the heritors and minister shall only be allowed what remained of the four months, at the time of his election, with so many days more as required by this act.

§ 18. And be it further enacted, That the heritors qualified as is hereby required, and minister, in a meeting called on thirty days notification from the pulpit, and by letter from the minister to the non-resident heritors, and by notice to be left at the mansion-house of each heritor, whether resident or not, shall have the power of fixing the school fees from time to time as they shall judge ex-

pedient ; and a table of such fees, signed by the preses of the meeting, shall be hung up in the school-room : Provided always, that the schoolmaster shall be obliged to teach such poor children of the parish as shall be recommended by the heritors and ministers at any parochial meeting.

§ 19. And be it enacted, That the superintendence of schools shall continue with the ministers of the established church as heretofore, according to the several acts of parliament respecting the same, except in so far as altered by this present act.

§ 20. And be it enacted, That as often as presbyteries, in the course of their visitation, shall find any thing wrong with respect to the hours of teaching, or the length of the vacation annually given, or when any complaint shall be made to them upon those subjects by parties concerned, they shall have the power of regulating the same in the manner they may judge most consistent with the particular circumstances and general good of the parish ; and the schoolmaster is hereby required to conform to and obey all regulations so made by the presbytery, under pain of censure or suspension from or deprivation of his office, as to the presbytery shall seem proper.

§ 21. And be it enacted, That when any complaint from the heritors, minister, or elders, against the schoolmaster, charging him with neglect of duty, either from engaging in other occupations, or from any other cause, or with immoral conduct, or cruel and improper treatment of the scholars under his charge, shall be presented to the presbytery, they shall forthwith take cognizance of the same, serve him with a libel, if the articles alleged appear to them to be of a nature which requires it ; and having taken the necessary proof, they shall acquit or pass sentence of censure, suspension, or deprivation, as shall appear to them proper upon the result of such investigation ; which judgment shall be final, without appeal to or review by any court, civil or ecclesiastical ; and in case they shall depose the incumbent from the office of schoolmaster, his right to the emoluments and accomodations of the same shall cease from the time of his deposition ;

and in case he shall fail or refuse to remove from the school, school-house, and garden, within the space of three months from the date of such sentence or deposition, the sheriff of the shire, or steward of the stewartry, upon having an extract or certified copy of the sentence of deposition by the presbytery laid before him, shall forthwith grant letters of ejection against such schoolmaster, of which no bill of suspension or advocacy, nor action of reduction shall be competent; and in case of such deposition, the school shall immediately be declared vacant, and the election of another schoolmaster shall take place.

§ 22. Provided always, and be it enacted, That it shall not be lawful for any heritor who is not a proprietor of lands within the parish, to the extent of at least one hundred pounds Scots of valued rent appearing in the land-tax books of the county within which such parish is situated, to attend or vote at any meeting held pursuant to this act; but every heritor qualified as above may vote by proxy, or by letter under his hand.

§ 23. Provided also, and be it enacted, That all former acts and statutes with regard to parish schools or schoolmasters, are hereby ratified and confirmed, in so far as they are not altered by the express provisions of this act.—43 *Geo. III*, c. 54, *June* 11, 1803.

### STIPEND.

As the ministers had been long defrauded of their stipends, and had fallen into great poverty and necessity, ordained that the whole thirds of the whole benefices of this realm shall now instantly and in all times to come first be paid to the ministers of the evangel and their successors, and they being answered of their stipends, that the surplus be applied to the sovereign's use.—James VI, 1567.

All benefices not exceeding three hundred merks of yearly rent or within, given to qualified ministers.—James VI, 1572.

Declared, that his majesty, for the support of his guard,

shall have the first year's fruits of all prelacies and other inferior benefices (laic patronages excepted) now vacant, or which hereafter shall vaik; and that during the whole space of the vacancy of said benefices, his majesty's treasurer shall intromit and uptake the whole rents, fruits, profits, and duties thereof.—James VI, 1584.

Appointed that all ministers' stipends for the time to come, shall be free from all tacks, pensions, taxations, or impositions whatsoever, notwithstanding any gift or disposition made to the contrary.—James VI, 1593.

The greatest stipend appointed to be a thousand merks, or ten chalders of victual, with manse and glebe; and the least to be five hundred merks, or five chalders of victual, with manse and glebe, except where the whole fruits of the kirks will not extend to that quantity.—James VI, 1617.

The act of commission of surrenders and teinds of the date of June 26th 1627, ratified, by which it was found expedient that the lowest proportion with which the ministry serving the cure at each kirk shall be provided, shall be eight chalders of victual, where victual is paid, or proportionally in silver and victual as the commissioners shall appoint, and according to the state of that part of the country where the payment of the stipend shall occur: and by which it was concluded that the said proportion of eight chalders of victual, or proportionally in silver, shall be the lowest maintenance to each kirk, except such particular kirks occur, wherein there shall be a just and reasonable and expedient cause of going beneath the quantity now determined.—Charles I, 1633.

Patrons ordained, with advice and consent of the presbytery, to employ the vacant stipend on pious uses within the parish or within the bounds of the presbytery.—1644, 20.

Vacant stipends appointed to be employed for the maintenance and towards the reparation of the sufferings of persons, who, in the confusion of the times, had been suspended or deposed from their charge and ministry. This act to endure seven years, or longer if his majesty should think fit.—Charles II, 1661.



The manse in time of vacancy to be maintained and repaired out of the readiest of the vacant stipend.—Charles II, 1663.

Ministers' stipends, if not required, shall prescribe in five years after they become due; and actions upon them in ten years, except they be wakened every five years.—Charles II, 1669.

That the maintenance of the clergy may be duly secured to them, ordained, that no suspension shall be past in time coming against any archbishop, bishop, minister of the gospel, or universities and colleges, of any charges to be given at their instances for payment of the rents of their benefices, stipends, or college rents, where they have special decreets against the heritors or possessors due and liable in payment thereof to them, except upon production of discharges or consignment of the sums charged for, if the rent of the benefice or stipend consist in money, or of one hundred merks Scots for ilk chaldar of victual where the same consists in victual. And in case it shall be found at the discussing of the suspension that the charge hath either been maliciously given or maliciously suspended, the Lords of Session shall modify a fifth part of the sum charged for, as expenses of plea against the malicious charger or suspender.—Charles II, 1669.

Declared, that the vacant stipend of all churches in time coming shall be employed by the patron on pious uses within the parish, particularly for the building and repairing of bridges, repairing of churches, or entertainment of the poor, as the patron shall determine, and if he fail therein, that he lose his right of patronage for the next vice.—James VII, 1685.

Popish patrons appointed to employ the vacant stipend on pious uses by the advice and appointment of the presbytery; and in case the patron fail in applying the vacant stipend in said uses, he shall lose his right of administration of the vacant stipend, for that and next vacancy, and the same shall be disposed of by the presbytery to the uses aforesaid.—William and Mary, 1690.

Vacant stipend within the bounds of the synod of Argyle to be applied for training up of youths at schools

and colleges, as a necessary means for planting and propagating the gospel in these places.—William and Mary, 1690.

Twenty merks allowed every Lord's day to such as preached by appointment of the presbytery in vacant churches on the north side of the Forth, out of the vacant stipend; and power given to presbyteries within whose bounds the vacant churches lay, to grant commissions for uplifting as much of the vacant stipend as should be sufficient to satisfy the said allowance.—King William, 1695.—Rescinded 10 Anne 11.

The above act ratified, and enacted, That there be no advocacy or sist of process granted of actions for the said stipends, or rents of benefices when pursued before inferior judges, and that in the case of a decret, there be neither a suspension nor sist of execution granted, except on production of clear discharges or consignation of the sum charged for; and if any suspension be past, that the same be summarily discussed without abiding the order of the roll; and if the letters be found orderly proceeded in, the suspender be also decerned at least in a fifth part more than the sums charged for. And if any minister shall happen to pursue for his stipend by way of ordinary action before the lords, ordained that the same be summarily proceeded in and discussed, without abiding the order of the roll.—King William, 1695.

The same privileges extended to universities, schools, and hospitals.—King William, 1696.

Whereas by an act of the parliament of Scotland, in the year one thousand seven hundred and seven, intituled, Act anent Plantation of Kirks and valuation of Teinds, her majesty Queen Anne, and the estates of parliament, empowered, authorized, and appointed the Lords of Council and Session to judge, cognosce, and determine in all affairs and causes which, by the laws and acts of the parliament of Scotland had been referred, and did pertain and belong to the jurisdiction and cognizance of commissioners formerly appointed for that effect, as fully and freely in all respects as the said Lords did or might do in

other civil causes ; and certain powers therein mentioned were particularly granted by the said act ; and it was thereby declared that the said act and commission should be subject nevertheless to such regulations and alterations as should be made by the parliament of Great Britain : And whereas it is expedient that the powers of the said Lords of Council and Session, as commissioners aforesaid, should in some respects be defined and regulated ; it was therefore enacted, That from and after the 30th June 1808, it shall not be competent to the said Lords of Council and Session, as commissioners aforesaid, except as after specified, to augment or modify any stipend which shall have been augmented or modified prior to the passing of this act, until the expiration of fifteen years from and after the date of the last final decret of modification of such stipend.

§ 2. That no stipend which shall be augmented or modified by a decree, after the passing of this act, shall be again augmented or modified until the expiration of twenty years from and after the date of such decree or modification thereof ; nor shall any such stipend be augmented or modified at any future period until the expiration of twenty years from and after the date of the last decree of modification thereof respectively.

§ 3. Provided always, and be it enacted, That in all processes of augmentation or modification, in which the days of compearance had elapsed, and which shall have been called in court prior to the twelfth day of March one thousand eight hundred and eight, and which shall continue to depend before the said Lords of Council and Session as commissioners aforesaid, at or after the passing of this act, it shall be competent to the pursuer either to suspend the same until fifteen years shall have elapsed from the date of the last preceding decree of modification, or to prosecute the same to a conclusion forthwith ; and that it shall be competent to the said Lords of Council and Session as commissioners aforesaid, either to grant or to refuse to grant an augmentation in any such cases, or to pronounce or to refuse to pronounce a decret of

modification therein : Provided always, that if the stipend in any such depending case shall be augmented or modified by a decret after the passing of this act, the same shall not be again augmented or modified until the expiration of twenty years from and after the date of such decree of modification thereof ; nor shall any such stipend be augmented or modified at any future period, until the expiration of twenty years from and after the date of the last decree of modification thereof respectively.

§ 4. Provided further, and be it enacted, That this act shall not be deemed or taken to extend to any case where a decret of modification having been pronounced by the said Lords of Council and Session as commissioners aforesaid, prior to the passing of this act, the subject matter whereof shall be depending, either upon petition to the said commissioners, or upon appeal to the House of Lords at the time of the passing thereof, or where it may be competent to present such petition or such appeal against any such decret of modification, but every such case may be proceeded in and brought to a conclusion ; and a petition or petitions may be presented to the said commissioners therein, or an appeal may be taken to the House of Lords as heretofore, and the same may be prosecuted with regard to said petition or appeal in the same manner as if this act had not been made.

§ 5. Provided always, and be it enacted, That in such cases aforesaid, where there shall be a final decret of modification, no such stipend shall be again augmented or modified until the expiration of fifteen years from and after the date of the final decret of modification thereof, pronounced by the said Lords of Council and Session as commissioners aforesaid.

§ 6. Provided likewise, and be it enacted, That where such stipend shall, at or after the expiration of the said fifteen years, be again augmented or modified by a decree, after the passing of this act, it shall not be again augmented or modified until the expiration of twenty years from and after the date of such decree of modification thereof, nor shall any such stipend be augmented or

modified, at any future period, until the expiration of twenty years from and after the date of the last decree of modification thereof respectively.

§ 7. Provided further, and be it enacted, That in all cases whatsoever where an augmentation or modification of stipend shall have been or shall be applied for, and which shall be judged of, or a decision pronounced therein, after the passing of this act, by the said Lords of Council and Session as commissioners aforesaid, it shall and may be competent to them to refuse to augment or modify any stipend in any such case, either on account of there being no legal fund of augmentation, or on account of the circumstances of the case; and it shall and may be competent for any party or parties to propound all relevant objections in every case whatsoever where an augmentation or modification shall be applied for, and which objections shall be determined by the said Lords of Council and Session, as commissioners aforesaid, as heretofore.

§ 8. And be it further enacted, That every stipend which shall be augmented after the passing of this act shall be wholly modified in grain or victual, even although part of the whole thereof shall have been previously modified in money, or although part of the whole of the teinds shall be money teind, unless where it shall appear necessary, on account of the state of the teinds, or on account of the interest of the benefice, or on account of the nature of the articles other than grain or victual which have been in use to be delivered in kind as stipend, that a part of the said stipend should be modified, not in grain or victual, but in money, or should be modified in such other articles as have been in use to be delivered in kind as stipend.

§ 9. And be it further enacted, That in the case of every decree of modification which shall be pronounced after the passing of this act as aforesaid, it shall and may be competent to the said Lords of Council and Session, as commissioners aforesaid, and they are hereby authorized and required to convert the said money stipend or money teind into grain or victual, save and except as aforesaid; and to make such conversion into grain or

victual according to the fiar prices of the kind or description of grain or victual into which the same shall be converted, as appearing from the fiars of the county or stewartry struck for each year, in virtue of authority from the sheriff or stewart in which the parish shall be situated, upon an average of such fiar prices for seven years preceding the date of the decret of modification, and exclusive of that year in which such decret of modification shall bear date.

§ 10. Provided always, and be it enacted, That where such parish shall not be altogether situated in the same county or stewartry, or where no fiars applicable to the kind or description of grain modified shall be struck in the county or stewartry wherein such parish is situated, it shall be competent for the said Lords of Council and Session, as commissioners aforesaid, to convert the said money into grain or victual, according to the average of the aforesaid seven years of the fiar prices of two or more of the adjoining counties, or of such stewartry, county or counties, as they shall deem most suitable in the circumstances of the case.

§ 11. And be it further enacted, That it shall not be competent for the Lords of Council and Session as commissioners aforesaid, where a stipend shall, after the passing of this act, be modified in grain or victual, in whole or in part, to authorize the minister to receive the same or any part thereof in kind, but that it shall only be competent for them to decree the value thereof to be paid, or for him to receive the same in money, according to the fiar prices of the kind or description of grain or victual into which the same shall have been modified, as appearing from the annual fiars of the county or stewartry in which the parish, the stipend of which shall have been so modified, shall be situated, struck in virtue of authority from the sheriff or stewart, for that crop or year for which such stipend, modified in grain or victual, shall be payable.

§ 12. Provided always, and be it enacted, That where any such parish shall not be altogether situated in one and the same county or stewartry, or where no annual fiars applicable to the kind or description of grain or victual mo-

dified, shall be struck in the county or stewartry wherein such parish is situated, it shall be competent for the said Lords of Council and Session, as commissioners aforesaid, to fix upon and specify two or more of the adjoining counties, or such stewartry, county or counties as they shall deem most suitable in the circumstances of the case, according to the annual fiar prices of which stewartry, county or counties, they shall decree the value thereof to be paid in money.

§ 13. Provided always, and be it enacted, That where there shall have been or shall be different rates of annual fiar prices for any county or stewartry, district or place, struck in virtue of authority from the sheriff or steward, the said conversion from money into grain or victual, and from grain or victual into money, in all of the cases aforesaid, shall be made according to the highest annual fiar prices struck in virtue of authority from the sheriff or steward for the said county, stewartry, district, or place.

§ 14. Provided always, and be it enacted, That the right of any heritor to surrender his valued teind in place of subjecting his lands, to the amount of the stipend localised upon them, shall not be taken away by what is herein enacted.

§ 15. And be it further enacted, That from and after the passing of this act, the said Lords of Council and Session, as commissioners aforesaid, nine being a quorum, instead of meeting in the afternoon of each Wednesday as heretofore, shall meet at ten of the clock in the forenoon, upon the second Wednesday which shall happen after the Court of Session shall have met for the dispatch of business in the months of November and May in every year respectively ; and at the same hour once a fortnight on Wednesday during the sitting of the Court of Session, and at such other times, and on such other days, in the months of December, January, and March, not being any of the days upon which the Court of Session meet for the dispatch of the business of the said court, as the said Lords of Council and Session, as commissioners aforesaid, shall find necessary or proper for executing the powers committed to them by this and the said in part recited act.

§ 16. And be it enacted, That it shall be lawful for the said Lords of Council and Session, as commissioners aforesaid, and they are hereby empowered and required to establish rules and regulations for abridging the forms and expense of citation of heritors and others, and for ascertaining the facts and circumstances of the case, and to establish regulations for executing the business committed to them by the said in part recited act of the parliament of Scotland, and by the present act, with as much expedition and as little expense as possible.

§ 17. And, in order to guard against collusion, and also in order that no processes of augmentation or for modification of stipends shall be raised on the ground of alleged collusion, be it further enacted, That every minister insisting in the process of augmentation shall, after the passing of this act, besides citing the heritors, also cite the moderator and clerk of the presbytery of the bounds, and furnish them with a statement of the amount of his present stipend, and the addition to the stipend which he means to crave, in order that the presbytery, if they shall judge it proper, may appear as parties to the process; and, in the event of the presbytery entering no appearance, the minister shall forthwith transmit to the moderator or clerk of the presbytery a certified copy of the interlocutory pronounced by the court; and it shall be competent to the presbytery, within five months after such interlocutor is pronounced, to enter an appearance, and to shew, if they shall see cause, that the decree of modification pronounced is collusive and prejudicial to the benefice: Provided, that if the presbytery shall enter an appearance in such process, it shall be competent to the court to subject the minister insisting in such process, in the whole or any part of the expenses of process incurred by the presbytery.

§ 18. And be it further enacted, That all the powers given and granted by the said in part recited act to the commissioners thereby appointed, shall remain and continue in force, and receive such and the like effect as they do at present, excepting in so far as they are altered or repealed by this act.—48 Geo. III, c. 138, 30th June 1808.



Whereas by an act of the parliament of Scotland, made in the year 1633, intituled, Anent the rate and price of teinds; and by another act of the parliament of Scotland, made in the same year, intituled, Commission for valuation of teinds not valued, rectifying the valuations of the same already made, and other particulars therein contained, it was statuted, ordained, and declared, that all heritors and liferenters of lands in Scotland should be entitled to have the teinds or tithes of their lands valued at certain fixed rates, to be paid for the same in all time to come: And whereas in many parishes in Scotland where the stipends of the parochial ministers are payable out of the teinds or tithes in consequence of the depreciation of the value of money, the stipends of such parochial ministers have become inadequate to their support and maintenance; and on account of the valuations of teinds which have taken place, no funds exist out of which future augmentations of such stipends can be granted: And whereas in several parishes where the stipends of the parochial ministers are payable out of funds and revenues separate and distinct from the teinds, such stipends have also become inadequate to the support and maintenance of the ministers thereof, and no funds exist out of which such stipends can be augmented: And whereas it is expedient that means should be provided for augmenting the stipends of each of such ministers as aforesaid, to a yearly amount or value of £150 sterling; and it appears that an annual sum not exceeding £10,000 sterling will be sufficient to carry these purposes into effect: May it therefore please your majesty, that it may be enacted, and be it enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, That from and after the passing of this act, there shall in every year be set apart and appropriated in the hands of his majesty's receiver-general and paymaster in Scotland, out of the public revenues and money received and collected by him, an annual sum, not exceeding in whole

the sum of £10,000 of lawful money of Great Britain, to answer the purposes of this act, to be applied in manner herein-after mentioned.

§ 2. And be it further enacted, That as soon as conveniently may be after the passing of this act, the clerk to the different presbyteries within Scotland shall make up accounts of the different parishes within each presbytery, the stipends of which parishes do not extend in their yearly amount or value to the sum of one hundred and fifty pounds sterling, and which cannot be augmented to that extent under the laws at present in force, either by reason of the teinds of such parishes being already exhausted, or for other want of funds out of which such augmentations could be made, or where, from the small amount or value of the unexhausted teinds, it has been deemed inexpedient to bring actions of augmentation, which accounts shall specify the amount of each such stipend in money, grain, or other articles in which the same is payable, and the rate at which such grain or other articles, if not in use to be paid in kind, are convertible into money, and if in use to be paid in kind, the value thereof on an average of the last nine years preceding the passing of this act, and the period when such stipend was last augmented, and if any unexhausted teind remains, specifying the amount or value thereof, as far as the same can be ascertained, and the said accounts shall be transmitted to the teind-clerk, or principal clerk to the Lords of Council and Session, as commissioners for plantation of kirk and valuation of teinds, appointed by an act of the parliament of Scotland in one thousand seven hundred and seven.

§ 3. And be it enacted, That when and as soon as the accounts shall be received from the clerks to the different presbyteries in manner before mentioned, the same shall upon the application of any of the ministers interested, or of the procurator for the church on behalf of the whole, be taken into consideration by the Lords of Council and Session, as commissioners as aforesaid, and a list or schedule shall thereupon be made up under their direction and authority, of all such stipends which, from the cause

aforesaid, cannot be augmented to the annual amount or value of one hundred and fifty pounds, under the laws at present in force, specifying the amount of each stipend in money, grain, or other articles in which the same is payable, and the rate at which such grain and other articles, if not in use to be paid in kind, are convertible into money, or if in use to be paid in kind, the value thereof on an average of the last nine years preceding the passing of this act, and of the sums necessary to augment each such stipend, including its present annual amount or value, to the annual amount or value of £150 sterling, provided that the said augmentations shall not exceed in the whole the annual sum of ten thousand pounds sterling; and in such list or schedule it shall and may be lawful to the said Lords of Council and Session, as commissioners aforesaid, to specify those cases in which in their opinion the teinds should be fully exhausted before any relief or augmentation should be granted under the authority of this act.

§ 4. Provided always, and be it enacted, That it shall and may be lawful in those cases where the present stipend does not amount to one hundred and fifty pounds, and where the unexhausted teinds will not be sufficient to augment it to an amount beyond one hundred and fifty pounds, and where the commissioners are of opinion that the teinds should be in the first instance exhausted for each minister whose case shall be so specified as aforesaid, forthwith to institute a process of modification and augmentation for obtaining the remainder of such unexhausted teinds; and that it shall be lawful for the said Lords of Council and Session, as commissioners aforesaid, to award to him the whole of such unexhausted teinds as soon as the course of such process shall admit, any thing in an act passed in the forty-eighth year of his present majesty's reign, intituled, An act for defining and regulating the powers of the commission of teinds, in augmenting and modifying the stipends of the clergy of Scotland, or in any other act or acts, to the contrary contained in anywise notwithstanding.

§ 5. And be it enacted, That the list or schedule so to be made up as aforesaid, shall, under the directions of

the said Lords of Council and Session, as commissioners aforesaid, be forthwith printed, and a copy thereof shall be sent by their clerk to each minister whose stipend shall have been included in the accounts transmitted from the presbyteries to the said teind clerk, or principal clerk of the said Lords of Council and Session, as commissioners aforesaid, in manner before mentioned, and a copy to the clerk of each presbytery within Scotland, who shall thereupon give notice to each minister of the presbytery of the receipt of such printed copy of the aforesaid list or schedule.

§ 6. And be it enacted, That it shall and may be lawful to and for every minister of the presbytery whose stipend shall not be specified in the said list or schedule, but whose stipend should in virtue of this act have been so specified therein; to make a representation to the presbytery of the bounds, shewing why his stipend should be so specified, and for every minister whose stipend shall be specified in the said list or schedule to present objections thereto, if he shall see cause, to such presbytery of the bounds; and it shall be lawful to each presbytery, and such presbytery is hereby required to take such representations and objections into consideration, and to report their opinion upon such list or schedule as the same may appear to them, to the said Lords of Council and Session, as commissioners foresaid: Provided always, that such report shall be made by each presbytery, and transmitted by the clerk of such presbytery to the teind clerk, or principal clerk of the said Lords of Council and Session; as commissioners aforesaid, within six calendar months next after the said list or schedule shall have been received by the clerk of such presbytery.

§ 7. And be it enacted, That if any minister shall think himself aggrieved by any report made by or proceedings of any presbytery in the matters aforesaid, it shall and may be lawful to such minister to present his petition to the said Lords of Council and Session, as commissioners aforesaid, stating the grounds of his objection or complaint in the premises; and the said Lords of Council and Session, as commissioners aforesaid, shall order such peti-

tion to be taken into consideration in a summary way, and direct the same to be answered, or otherwise; and shall determine in the matter of such objection or complaint as early as the circumstances of the case will permit; and such determination shall be final and conclusive, and not subject to any appeal to the House of Lords.

§ 8. And be it enacted, That the said Lords of Council and Session, as commissioners aforesaid, shall, with all convenient dispatch after such reports shall have been received from the presbyteries as aforesaid, take the same, with the determination that may have been given on any petition as aforesaid, and the list or schedule formerly prepared by them into consideration, and shall confirm the said list or schedule, or make such alterations thereon as to them shall seem just and expedient, and shall adjust and settle the same; and after it shall have been so adjusted and settled, shall order the same to be recorded in their books.

§ 9. And be it enacted, That the said teind clerk or clerk to the Lords of Council and Session, as commissioners aforesaid, shall forthwith make out an extract or certified copy of the said recorded list or schedule, and transmit the same to the barons of his majesty's Exchequer in Scotland, who shall appoint the same to be also forthwith recorded in their books; and shall thereupon issue a precept or warrant, addressed to his majesty's said receiver general and paymaster in Scotland, to each of the ministers of the respective parishes mentioned in such list or schedule, for payment to such minister of the annual sum, which, according to such list or schedule is necessary for augmenting his stipend to the annual amount or value of one hundred and fifty pounds, to be paid to him at the terms or times herein-after directed during his incumbency in the parish mentioned in such precept or warrant, and shall cause such precept or warrant to be transmitted to the minister therein mentioned.

§ 10. And be it enacted, That as soon as the said Lords of Council and Session, as commissioners aforesaid, shall have decided in any process or processes for obtaining the remainder of any unexhausted teinds in manner herein-

before directed, and shall thereupon, or upon any other ground, have determined with respect to the stipend or stipends of any minister or ministers which ought to be augmented under the authority of this act, and shall have ascertained the sum necessary for augmenting each such stipend to the annual amount or value of one hundred and fifty pounds, the said Lords of Council and Session, as commissioners aforesaid, shall cause a list or schedule of such stipend or stipends to be made out in manner as herein before directed, specifying the sum necessary for augmenting each such stipend to the annual sum of one hundred and fifty pounds; and such list or schedule shall be recorded in the books of the teind court, and an extract or certified copy thereof shall be made out in manner herein-before directed, and shall be transmitted to the barons of Exchequer, who shall cause the same to be also recorded in their books, and shall issue their precept or warrant, addressed to his majesty's said receiver general and paymaster in Scotland, to each of the ministers of the respective parishes mentioned in such list or schedule, for payment to such minister of the annual sum which, according to such list or schedule, is necessary for augmenting his stipend to the annual amount or value of one hundred and fifty pounds, to be paid to him at the terms or times herein-after directed, during his incumbency, in the parish mentioned in such precept or warrant, and shall cause such precept or warrant to be transmitted to the minister therein mentioned.

§ 11. And be it enacted, That the augmentations by this act, granted out of the fund before mentioned, shall be payable by two half-yearly payments at the terms of Whitsunday and Michaelmas in each year; and the first half-yearly payment thereof shall be due and payable for the half-year immediately preceding the term of Whitsunday last; and the same shall be so expressed in the precepts or warrants to be issued by the barons of Exchequer in manner herein-before directed; and at the first term of Whitsunday or Michaelmas after the passing of this act, or as soon thereafter as the amount of the respective augmentations shall be fixed and settled, the said receiver ge-

neral and paymaster shall be, and is hereby required to pay to the minister mentioned in such precept or warrant as herein-before directed to be issued, or to any person or persons duly authorized to that effect by such minister, the half-yearly payments that may be due and payable to such minister at the time, subject to deduction for the first year, in manner herein-after mentioned; and at every subsequent term of Whitsunday or Michaelmas thereafter, the said receiver general and paymaster shall be, and is hereby required to pay to such minister, or person or persons authorized as aforesaid, the half-yearly payment or payments that may be due to such minister at the time.

§ 12. And be it enacted, That out of the first year's augmentation granted to such ministers as aforesaid, and payable by virtue of this act, the said receiver general and paymaster shall be, and he is hereby authorized and required to deduct and retain the sum of one shilling in the pound sterling, of the sum payable to each of such ministers as aforesaid, to be applied in manner herein-after directed; but such deductions shall be made only from the augmentation payable for the first year under this act, and no such deduction shall be made from the augmentation payable for any subsequent year.

§ 13. And be it enacted, That the said Lords of Council and Session, as commissioners aforesaid, shall cause to be made up an account of the expenses incurred, and of the recompence to be made to the persons employed under the authority of this act, for their labour and trouble in the matters aforesaid, and shall specify in such account the persons to whom such expenses and recompence shall be paid, and the sum payable to each person, not exceeding in the whole the amount of the deduction of one shilling in the pound, to be retained by the said receiver general and paymaster in manner before mentioned, and shall certify the same to the said barons of Exchequer; and the said barons of Exchequer shall from time to time issue their warrants upon the said receiver general and paymaster, for payment to the persons specified in such account, or to their order, of the several sums of money therein specified.

§ 14. And be it further enacted, That when the minister of any church or parish whose stipend shall have been specified in any list or schedule herein-before directed to be prepared by the said Lords of Council and Session, as commissioners aforesaid, shall die or be removed from the charge of his church or parish, his successor in such church or parish, if no precept or warrant had been granted to his predecessor, shall be entitled to take all such steps in regard to the obtaining of such precept or warrant as would have been competent to his predecessor, but shall be, as he is hereby bound and obliged to account for and pay to his predecessor, to the executors or personal representatives of his predecessor, whatever part of the augmentation granted under the authority of this act shall be due to such predecessor, or to the executors or personal representatives of such predecessor respectively; and if such precept or warrant had previously been granted, the minister succeeding to such church or parish shall be entitled to apply to the said barons of Exchequer to be put in the place and stead of the minister so dying or being removed as aforesaid, with respect to future payments under this act, in the manner herein-after mentioned; and the said barons of Exchequer, upon being satisfied that the minister so applying has succeeded to the church or parish of the minister so dying or being removed as aforesaid, shall forthwith issue a precept or warrant to the said receiver general and paymaster in favour of the minister so applying for payment to him of the sums which were payable to the former minister of such church or parish, at the terms or times herein-before directed, during his incumbency in the church or parish mentioned in such precept or warrant, and shall cause such precept or warrant to be transmitted to the minister therein mentioned; and the sums therein mentioned shall be payable and be paid upon such precept or warrant by the said receiver general and paymaster to the minister mentioned therein, or to any person or persons duly authorized to that effect, at the term or terms, and in manner herein-before directed; and so on, as often as the case shall happen, with respect to all the ministers who shall succeed to any church



or parish, the stipend of which shall be inserted in any such list or schedule as aforesaid.

§ 15. Provided always, and be it enacted, That the rights and interests of the respective ministers who may be entitled to the augmentations to be granted under the authority of this act, shall, in case of their decease or removal, cease and determine at the same terms of Whitsunday or Michaelmas, and in the same manner as the rights and interests of the clergy of Scotland in their other stipends cease and determine by the law of Scotland; and that in like manner the rights and interests of their successors to the said augmentations to be granted under the authority of this act, shall commence at the terms of Whitsunday or Michaelmas immediately preceding their admission to their respective churches or parishes, in the same manner as the rights and interests of the clergy of Scotland to their other stipends do commence by the law of Scotland.

§ 16. Provided also, and be it enacted, That the executors or personal representatives of the ministers deceasing, whose stipends shall be augmented under the authority of this act, and the executors or personal representatives of their successors, shall be entitled to draw one half-yearly moiety of the augmentations to be granted under the authority of this act, in the name of Ann, over and above the stipends that may have been due to the ministers deceasing, in the same manner as is directed by the law of Scotland with respect to the other stipends of the clergy of Scotland; and the barons of his majesty's Exchequer shall grant precepts or warrants to his majesty's said receiver general and paymaster, for payment of the said half-yearly moiety in the name of Ann, to those having right thereto by the law of Scotland, upon their receipt, and this without the necessity of any confirmation or other title to be made up in that behalf.

§ 17. And be it enacted, That when the pastoral charge in any of the churches or parishes, the stipends of which shall be augmented as herein-before mentioned, shall at any time hereafter become vacant, the several sums herein-before directed to be appropriated for augmenting such

stipends respectively, shall not during any such vacancy (excepting only with regard to the half-yearly moiety in the name of Ann, directed to be paid as herein-before specified), be applicable to the purposes to which vacant stipends in Scotland are at present by law applicable; nor shall they in any such case be subject as vacant stipends are to the disposal of the patrons of such vacant parishes, or of the barons of his majesty's Exchequer in parishes of which his majesty is patron, or of the synods of Argyll or Glenelg, which have or claim to have a right by law to dispose of the vacant stipends within their bounds.

§ 18. And be it further enacted, That in the event of every vacancy occurring in the parishes in which the parochial stipends shall have been augmented under the authority of this act, the annual sums herein before directed to be appropriated for augmenting the stipends herein before mentioned, shall, after payment of the Ann in manner before directed, during any vacancy in any of the said churches or parishes, be payable and be paid to the trustees appointed by the act of the nineteenth year of the reign of his present majesty, intituled, *An Act for the better raising and securing a fund for a provision for the widows and children of the ministers of the church of Scotland, and of the heads, principals, and masters in the universities of Saint Andrews, Glasgow, Edinburgh, and Aberdeen; and for repealing two acts made in the seventeenth and twenty-second years of the reign of his late Majesty King George the Second, for those purposes*, or to their general collector, to be applied by the said trustees in the way they shall judge most expedient and effectual for securing a permanent addition to the annuities provided to the widows therein mentioned, in all time coming.

§ 19. And be it enacted, That when any such vacancy shall occur, the said barons of Exchequer shall, upon the application of the said trustees or their general collector, issue their precept or warrant to the said receiver general and paymaster for payment to the said trustees or their general collector, as aforesaid, of the whole amount of the sums directed to be appropriated under the autho-

city of this act in augmentation of the stipend of the said vacant church or parish, at the same term or terms at which vacant stipends are at present by the law of Scotland payable to patrons and others having interest therein.

§ 20. And be it further enacted, That it shall and may be lawful to and for the said general collector, under the authority and by the directions of the said trustees, and according to such regulations as they shall judge expedient, to lend out at interest, on sufficient security, the several sums hereby appointed to be paid to the said trustees or their general collector by the said receiver general and paymaster as aforesaid, from time to time, for the purpose of providing a permanent fund, in addition to the annuities before mentioned, established under the authority of the said recited act of the nineteenth year of the reign of his present majesty.

§ 21. And be it enacted, That all payments to be made by the said receiver general and paymaster, of the several sums of money herein before directed to be paid by him to the several persons, and for the several purposes herein before mentioned, upon the receipts of those legally entitled or authorized to receive the same, shall be allowed in his accounts.

§ 22. And be it enacted, That the several precepts or warrants to be issued in manner before mentioned, and the receipts to be granted for the sums of money payable as herein-before directed, shall not be liable to any stamp duty.

§ 23. And be it enacted, That if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, any such precept or warrant, or precepts or warrants as aforesaid, or any signature or signatures thereto, or any written factory or mandate, for receiving any sum or sums of money made payable under the authority of this act, or any signature or signatures thereto, or any receipt or receipts granted on payment of such sums of money as aforesaid, or signature or signatures thereto, and shall issue the same with an intent to defraud the said receiver general and paymaster or his

successors in office, or any person or persons entitled to any sum or sums of money payable under the authority of this act, then every person so offending, and being thereof lawfully convicted, shall be punished as persons guilty of the crime of forgery are liable to be punished by the law of Scotland.

§ 24. And be it enacted, That no fees or expenses whatsoever shall be charged by or paid to any clerks or officers of the said Lords of Council and Session, as commissioners aforesaid, or of the said barons of Exchequer, or the said receiver general and paymaster, or any clerk or officer employed by or under him, save and except the expenses and recompence for the first year, to be ascertained in the account of the same, to be made up and paid in manner before directed.

§ 25. And be it enacted, That the said Lords of Council and Session, as commissioners aforesaid, and the said barons of Exchequer, shall and may from time to time give such directions for the regulation of their respective clerks and officers employed, or that may be employed to carry this act into execution, where special directions are not hereby given relative to the same, as to the said Lords of Council and Session, as commissioners aforesaid, and to the barons of Exchequer, shall seem fit and expedient.—*Act 50 Geo. III, c. 89, 15th June 1810.*

Whereas an act, fiftieth George the Third, intituled *An Act for augmenting Parochial Stipends in certain cases in Scotland*, by which it was enacted, that as soon as conveniently might be after the passing thereof, the clerks of the different presbyteries within Scotland should make up accounts of the different parishes within each presbytery, the stipends of which parishes did not extend in their yearly amount to the sum of one hundred and fifty pounds sterling, and which could not be augmented to that extent under the laws then in force; and upon receiving such accounts, the same were directed to be taken into consideration by the Lords of Council and Session, as commissioners for plantation of kirks and valuation of teinds, and a list or schedule should thereupon be

made up, under their direction and authority, of all such stipends which, from the causes mentioned in the said recited act, could not be augmented to the annual amount or value of one hundred and fifty pounds under the laws then in force, specifying the amount of each stipend, in money, grain, or other articles in which the same was payable, and the rate at which such grain or other article, if not in use to be paid in kind, were convertible into money, and if in use to be paid in kind, the value thereof on an average of the last nine years preceding the passing of said act; and so soon as the said Lords of Council and Session, as commissioners foresaid, should have determined with respect to the stipend or stipends of any minister or ministers which ought to be augmented under the authority of the said recited act, the said Lords of Council and Session, as commissioners foresaid, should cause a list or schedule of such stipend or stipends to be made out in manner directed by the said recited act, specifying the sum necessary for augmenting each such stipend to the annual sum of one hundred and fifty pounds, and an extract or certified copy thereof, made out in the manner therein directed, should be transmitted to the barons of Exchequer, who should issue their precept or warrant, addressed to his majesty's receiver general and paymaster in Scotland, to each of the ministers of the respective parishes mentioned in such list or schedule, for payment to such minister of the annual sum which, according to such list or schedule is necessary for augmenting his stipend to the annual amount or value of one hundred and fifty pounds, to be paid to him at the terms or times therein directed during his incumbency: And whereas by the alteration in the price of grain and other circumstances, most of the stipends included in the present lists have been considerably reduced below the said sum of one hundred and fifty pounds, and it is expedient that the amount of such stipends should from time to time be reconsidered, so as to secure to the incumbents of such parishes a stipend of one hundred and fifty pounds each at all times, as nearly as may be: And whereas it is also expedient that some additional provi-

sion should be made in certain cases for such of the parochial clergy of Scotland as cannot, according to law, be provided with a manse or glebe : And whereas an annual sum not exceeding two thousand pounds, in addition to the sum provided by the before-recited act, will be sufficient to carry these purposes into effect : Be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That as soon as conveniently may be after the passing of this act, and from time to time once in five years, at the expiration of each successive five years in all time hereafter, the clerks to the different presbyteries within Scotland shall make out accounts in the manner directed by the said recited act, of the different parishes within each presbytery, the stipends of which parishes do not at the time extend in their yearly amount or value to the sum of one hundred and fifty pounds sterling, and which cannot be augmented to that extent under the laws at present, or to be then in force, by reason of the causes mentioned in the said recited act, which accounts shall specify the amount of each such stipend in money, grain, or other articles, according to an average of the last five years preceding the date of making out the same respectively, and the said accounts shall be transmitted to the teind clerk, or principal clerk of the Lords of Council and Session, as commissioners for plantation of kirks and valuation of teinds, who shall thereupon proceed in the manner directed by the said recited act to take the same into consideration, and to adjust and settle the same ; and so soon as the said Lords of Council and Session, as commissioners aforesaid, shall have adjusted and settled any such list or schedule, or shall have ascertained the sum necessary for augmenting each such stipend, in the manner directed by the said recited act, as often as the same is required to be done by this act, to the annual amount or value of one hundred and fifty pounds, the said Lords of Council and Session, as commissioners aforesaid, shall cause a list or schedule, or lists or schedules, to be made out in the manner directed

by the said recited act, specifying the sum necessary for augmenting each such stipend to the annual sum of one hundred and fifty pounds ; and every such list or schedule shall be recorded and transmitted in the manner directed by the said recited act ; and the said barons of Exchequer shall issue their precept or warrant addressed to his majesty's said receiver general and paymaster for Scotland, to each of the ministers mentioned in any list or schedule made up under the authority of this act, for payment to such minister of the annual sum which, according to such list or schedule, shall appear to be necessary for augmenting his stipend to the annual amount or value of one hundred and fifty pounds, to be paid him during his incumbency, and to his successor, at the terms or times and in the manner directed by the said recited act, unless and until an alteration shall take place in the manner herein-after directed.

§ 2. And whereas in some parishes in Scotland the ministers thereof have small stipends, and are not provided with a manse or a glebe, and it is reasonable that in such cases an additional stipend should be paid to such ministers, as some compensation for the want thereof ; be it therefore enacted, That as soon as conveniently may be after the passing of this act, the clerks to the different presbyteries within Scotland shall make up a list or lists of any parish or parishes within each presbytery, the minister whereof is without a manse and glebe, and of any parish or parishes the minister whereof is without a manse, and of any parish or parishes the minister whereof is without a glebe, the stipend of any which minister shall be under the amount or value of two hundred pounds per annum ; and every such list shall be transmitted to the said teind clerk, or principal clerk to the said Lords of Council and Session, as commissioners aforesaid.

§ 3. And be it further enacted, That after such list shall have been received by such teind or principal clerk, it shall and may be lawful for the said Lords of Council and Session as commissioners aforesaid, upon the application of any of the ministers interested, or of the pro-

curator of the church on behalf of the whole, to enquire into the circumstances of the case, and if they shall find that the stipend in any parish is under the annual amount or value of two hundred pounds, and that the minister cannot be provided with a manse and a glebe, or with a manse or a glebe, as the case may be, they are hereby directed to cause a list or schedule of every such parish where the minister cannot be so provided to be made out, and of the sum which ought to be allowed in respect of the want thereof, as the case may be, but so as that the total amount of the stipend shall not exceed two hundred pounds per annum in any case where the minister is without both manse and glebe, or one hundred and eighty pounds where the minister is without a manse or a glebe, as the case may be, and cannot be provided with the same respectively; and every such list or schedule shall be recorded in the books of the teind court, and an extract or certified copy thereof shall be made out and transmitted to the barons of Exchequer, who shall cause the same to be also recorded in their books, and shall issue their precept and warrant, addressed to his majesty's said receiver general and paymaster in Scotland, to the minister of the parish, or to each of the ministers of the respective parishes mentioned in such list or schedule, for payment to such minister of the annual sum which according to such list is to be paid to him in respect of the want of a manse and glebe, or the want of a manse or glebe, as the case may be, during his incumbency in the parish mentioned in such precept or warrant, at the terms and times, and in the same manner as the augmented stipends settled by the said recited act of parliament are thereby directed to be paid to the said respective ministers entitled to the same.

§ 4. And whereas from the alteration of circumstances it may from time to time happen that the sum to be allowed to some of such ministers to make up their stipends to the sums allowed by this act, may fall below these sums respectively; be it therefore enacted, that once in every five years in all time hereafter, and at the expiration of five years from the date of each such



transmission, the clerks to the different presbyteries in Scotland shall make out accounts of the amounts of the different stipends to which additions shall have been made, as directed by this act; and whenever such clerks shall find any such stipend to be five pounds *per annum* less than the sum allowed pursuant to this act, according to the average prices of grain in the county in which such parish shall be situated for the five years immediately preceding, the said clerks shall transmit an account of such stipends to the teind clerk, or principal clerk of the said Lords of Council and Session, as commissioners aforesaid, who shall thereupon proceed to increase each such stipend, so as to make the sum to be thereafter allowed amount as nearly as may be to the sum allowed under this act, according to the average prices of grain for five years preceding the date of such transmission of accounts respectively; and so soon as the said Lords of Council and Session shall have adjusted and settled or ascertained the sum necessary so to be allowed according to such diminution, as the case may be, as often as the same is directed by this act, the said Lords of Council and Session shall cause a list or schedule, lists or schedules, to be made out in the manner directed by the said recited act and this act, specifying the sum thenceforth to be issued, until an alteration in the amount of such sum shall take place in the manner directed by this act; and every such list or schedule shall be recorded, and thereafter transmitted, in the manner above directed in the case of the first allowance under this act; and the said barons of Exchequer shall issue their precept or warrant to his majesty's said receiver general and paymaster for Scotland, to each of the ministers mentioned in any such list or schedule, for payment to such minister of the annual sum which, according to such list or schedule, is to be paid to him during his incumbency, and to his successor, at the term or times and in the manner directed by the said recited act, unless and until an alteration shall take place in the manner directed by this act.

§ 5. Provided always, and be it enacted, That the augmentations of stipends authorized to be made by this act,

shall not exceed in any one year the sum of two thousand pounds sterling, over and above, and in addition to any balance of the sum of ten thousand pounds granted by the said recited act, remaining unapplied for the purposes thereof.

§ 6. And be it enacted, That all the directions given by the said recited act, with respect to the matters and things thereby appointed to be done, shall be observed and followed in executing this act, as far as such directions are not inconsistent with the same.

§ 7. And whereas by an act passed in the fifty-fifth year of the reign of his said late majesty (55th Geo. III, c. 187), intituled *An act for granting to his majesty certain sums out of the respective consolidated funds of Great Britain and Ireland, and for applying certain monies therein mentioned for the service of the year one thousand eight hundred and fifteen, and for further appropriating the supplies granted in this session of parliament*, a sum of ten thousand pounds was granted to his majesty to make provision for the augmentation of the maintenance of the poor clergy of the established church of Scotland, to be issued and appropriated pursuant to the provisions of an act passed or to be passed for that purpose: And whereas by an act passed in the fifty-eighth year of the reign of his late majesty (58th Geo. III, c. 101), intituled *An act for applying certain monies therein mentioned for the service of the year one thousand eight hundred and eighteen*, a further sum of ten thousand pounds was granted for a similar purpose, to be issued and appropriated in a similar manner: And whereas by another act passed in the fifty-ninth year of the reign of his said late majesty (59th Geo. III, c. 133), intituled *An act for applying certain monies therein mentioned for the service of the year one thousand eight hundred and nineteen, and for further appropriating the supplies granted in this session of parliament*, a further sum of ten thousand pounds was granted for a similar purpose, to be issued and appropriated in a similar manner: And whereas these three several sums of ten thousand pounds being no longer required for the pur-

poses for which they were granted ; be it enacted, That so much of the said acts as authorizes the issue of the said several sums of ten thousand pounds, shall be and the same are hereby repealed.—5 *Geo. IV, chap. 72, 17th June 1824.*

## SUNDAY.

The acts discharging markets to be held on Sunday ratified ; and further enacted, that whoever profanes Sunday by selling, or presenting to sale upon the said day any goods or gear, or whatsoever merchandize, by themselves or any other in their name, and shall be three several times convicted thereof, their whole goods and gear shall be escheated to his majesty's use, and their person punished at the will of his majesty, with advice of secret council.—James VI, 1594.

Salmon fishing, going of salt pans, milns, and kilns, hiring of shearers, and using of merchandize on Sunday forbidden under certain pecuniary mulcts.—1640, 9, 10 ; 1641, 28 ; 1649, 23.

Former acts of parliament made for the due observation of the Sabbath-day ratified and approved ; and all salmon-fishing, going of salt pans, milns, or kilns ; all hiring of shearers, carrying of loads, keeping of markets, or using any sort of merchandize on that day ; and all other profanation thereof whatsoever, inhibited and discharged under the following pains and penalties, viz. the sum of twenty pounds Scots for the going of ilka salt pan, miln, or kiln, on the said day, to be paid by the heritors and possessors thereof ; and the sum of ten pounds Scots for ilk shearer and fisher of salmon on the said day ; the one half thereof to be paid by the hirers and conducers, and the other half by the persons hired, and the said sum of ten pounds for every other profanation of the said day. The said fines and penalties to be uplifted and disposed of in manner contained in the act and instructions anent the justices of peace.—Charles II, 1661.

All fishing of salmon from Saturday at twelve o'clock at night to Sunday at twelve o'clock at night, strictly prohibited and discharged.—Queen Anne, 1705.

## TEINDS.

Eight prelates, eight lords, eight barons, and eight burgesses, five of each order to be a quorum, appointed by parliament, with power to call before them patrons, tacksmen of the teinds, and all others having a right to them, and out of the teinds to assign a perpetual local stipend to the ministers present; and to come at all kirks which shall be found either not provided at all with ministers and stipends, or where the provision was less than five hundred merks of yearly rent in money, or five chalders in victual, over the manse and glebe. Five chalders victual, or five hundred merks yearly, to be the meanest stipend which might be assigned to any minister for his local stipend in time coming, where the fruits of the benefice would extend to that quantity. The commissioners appointed to unite kirks, one or more as might be conveniently united, where the fruits of any one could not suffice to entertain a minister, the patrons of kirks so united to present *alternis vicibus*. The highest stipend which might be assigned to any minister not to exceed a thousand merks or ten chalders of victual. Commissioners restricted from meddling with benefices, the fruits of which exceeded ten chalders, or a thousand merks, and which were in the actual possession of ministers. This commission was to endure to the term of Lammas, in the year 1618.—James VI, 1617, June 28.

As divers kirks still remained unsettled, and unprovided with constant stipends, his majesty, with consent of parliament, granted to six prelates, six earls, six barons, and six burgesses, four of each order to be a quorum, full power to call before them all patrons, tacksmen of teinds, great and small, and others having right, by whatever title, to the teinds of any of the kirks within this kingdom, which were not already planted by the first commission; and out of the teinds to assign at their direction, a perpetual local stipend to the ministers present and to come, at all the said kirks unprovided. To dis-unite such kirks, one or more, as were united before, and

appointed to be served by one minister ; and as they, upon good consideration, shall find requisite, to appoint the same to be served by several functions and charges, as distinct parochins: Providing always, that all parties having interest in the union and disuniting of the said kirks and plantation thereof, give their express warrand and consent thereto. Power given to the said commissioners to set down such solid order for erecting and building of new kirks in any parochines where they shall find necessity and conveniency to do the same, and to provide the same with such proportion of stipends as they shall find may be, with least prejudice and best commodity, made out of the fruits of said parochines. In the erecting of new kirks and provision of them with ministers and stipends, the commissioners to have express power and warrand to determine and appoint such proportion and quantity as they shall find expedient, either amounting over the sum of five hundred merks, or beneath and under the same, as they shall find may most conveniently and commodiously be had, and as may with least prejudice be spared out of the same. The commissioners restricted from meddling with any kirk which was settled by virtue of the commission 1617, or from changing the estate of it in any ways. The commission to begin on the 10th January, and to last for year and day thereafter.—Aug. 4, 1621.

Power granted to nine of the clergy, nine of the nobility, nine of the barons, and to nine of the burgesses, fifteen of whom to be a quorum, to prosecute and follow forth the valuation of whatsoever teinds, parsonage or vicarage, within the kingdom which were yet unvalued. Also to receive the reports from the sub-commissioners appointed within ilk presbytery, of the valuation of whatsoever teinds led and deduced before them. To rectifie whatsoever valuations led or to be led to the enorm prejudice of the titulars, and to the hurt of the kirk, and of the ministers' maintenance and provisions. The said commissioners appointed to modifie and set down a constant local stipend to ilk minister, to be paid out of the teinds of ilk parochin : to divide ample and spacious parochins,

where the same shall be found necessary and expedient, or to unite divers kirks in whole or in part to others. This commission appointed to endure to the last day of December, 1635, and farther induring his majesty's pleasure, and ay and while the same be expressly discharged by his majesty's warrand, or letter to that effect.—Charles I, 1633.

Commission for plantation of kirks and valuation of teinds appointed by parliament 1617 and 1647.

His majesty considering that divers churches were yet unprovided with sufficient maintenance, and many teinds unvalued, with advice and consent of the estates of parliament, gave full power to so many noblemen, gentlemen and burgesses, thirteen of whom to be a quorum, to value whatsoever teinds, great or small, parsonage or vicarage which were yet unvalued; to appoint constant and local stipends, to grant augmentations, to disjoin too spacious and large kirks, to build and erect new ones: to dismember, annex, and unite kirks, and to take order that every heritor and liferenter shall have the leading, and buying of their own teinds, if they be willing according to the rates prescribed by former commissions. Ministers serving the cure who lead their teinds, and colleges, schools and hospitals, not constrained to sell or set their teinds, in prejudice of their successors, notwithstanding the valuation thereof. Titulars and others having right to teinds not forced to dispoise any teinds valued, or to be valued which they are content to assign to the minister serving the cure of the parish as a part of his provision. This commission ordained to endure ay and while the same be discharged by his majesty.—Charles II, 1661.

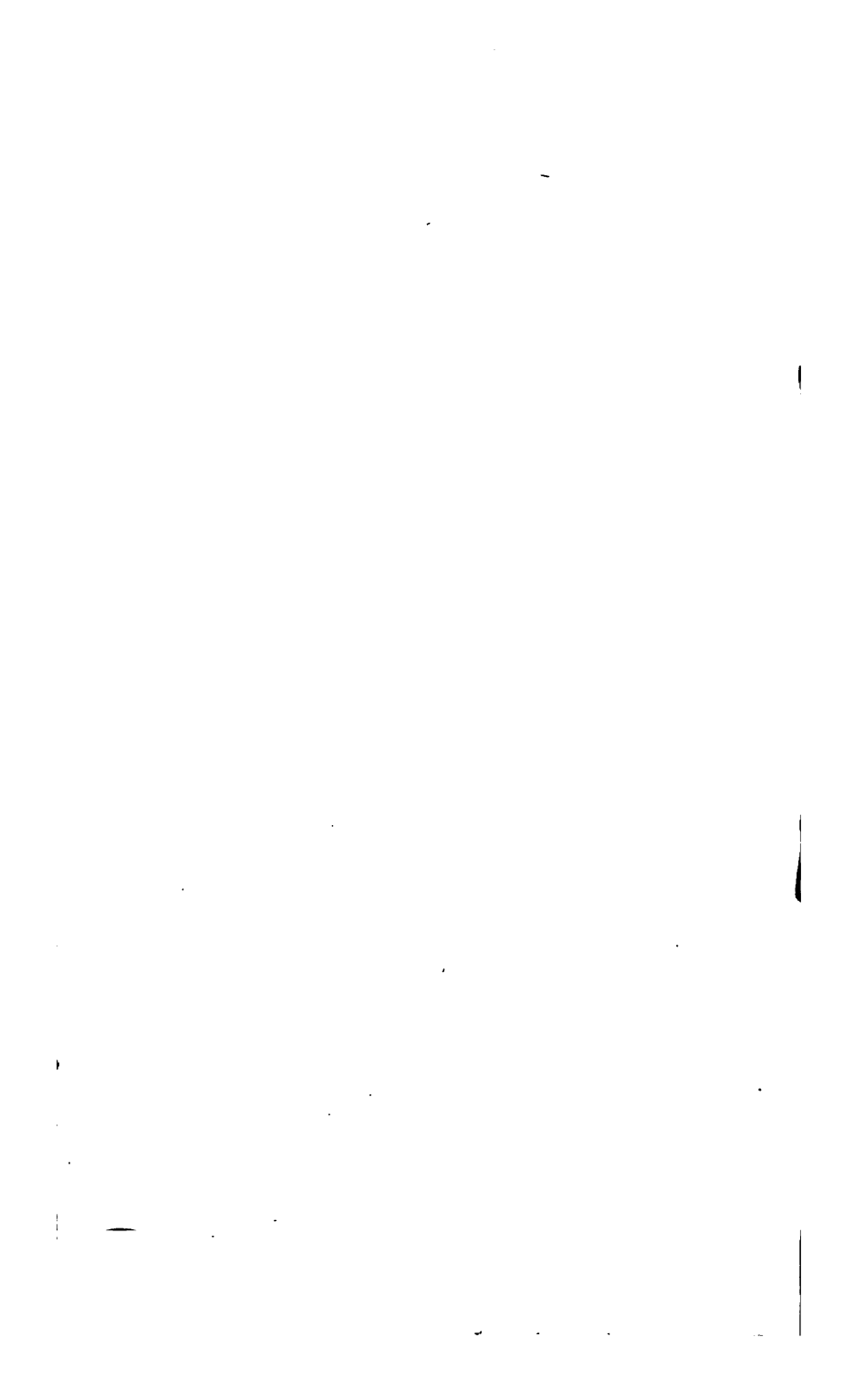
Power granted to so many of the nobility, bishops, barons and burgesses, fifteen of whom to be a quorum, to value teinds yet unvalued, to modifie and augment stipends, to erect, dismember, and unite kirks, as in the former commission. The same to endure ay and while it be discharged by his majesty.—Charles II, 1663.

Full power given to nine bishops, nine noblemen, nine barons, and nine burgesses, eleven of whom to be a

quorum, to value teinds yet unvalued, to modify stipends, erect and build churches, dismember and annex parishes as they shall see cause. The commission to endure until discharged by his majesty. Charles II, 1672. Commissions appointed with the same powers.—James VII, 1685, and 1686, and to endure until discharged by his majesty.

A commission for plantation of kirks and valuation of teinds granted to so many of the nobility, barons and burgesses, nine of whom to be a quorum, 1690. William and Mary, and renewed 1693. William and Mary. Both commissions to continue until discharged by their majesties. This last commission not extended to the buying or selling of teinds which formerly pertained to bishops, and now belonged to their majesties by the abolition of prelacy; nor to teinds belonging to colleges and hospitals, or mortified for pious uses.

The Lords of Council and Session empowered and appointed to judge and determine in all affairs and causes whatsoever, which, by the laws and acts of parliament of this kingdom, were formerly referred to the jurisdiction and cognizance of the commissions appointed for that effect, as fully and freely in all respects as the said lords do or may do in other civil causes. And for that effect appointed to meet and sit each Wednesday in the time of session. The transporting of kirks, disjoining of too large parishes, the erecting and building of new kirks, to be always with the consent of the heritors, of three parts of four at least of the valuation of the parish, where the kirk is ordered to be transported or the parish to be disjoined, and new kirks to be erected and built.—Queen Anne, Feb. 21, 1707.





**A**  
**PRACTICAL ACCOUNT**  
**OF**  
**THE COURT OF TEINDS,**  
**AND OF THE**  
**PROCEDURE IN PROCESSES OF**  
**AUGMENTATION.**

In addition to the information contained in the several statutory enactments, of which we have given a summary in the foregoing pages, it may be of use to the Clergy of the Church, and others, to possess a revised description of the Teind Court, and of the proceedings in it, according to the present established forms. This has been done with care, and it is to be hoped will be found correct in every particular.

# PRACTICAL ACCOUNT

## OF

### THE COURT OF TEINDS.

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THE teind court was originally a commission of parliament, appointed first in the reign of James VI,\* to ameliorate the ecclesiastical state of Scotland. It was renewed from time to time, with powers to plant churches, where they were wanted, to disjoin them when requisite, and unite them when circumstances rendered it necessary ; and at the same time to make effectual provision for the ministers, by modifying stipends for them, out of the teinds which formerly belonged to the church. At the union, the powers of all these commissions were transferred to the judges of the Court of Session, who were declared perpetual commissioners.† This court, regarded as a commission of parliament, is quite unconnected with the Court of Session. Their jurisdictions are distinct ; and each has its particular clerks, macers, and other officers. But their proceedings are subject to the review of the House of Lords,‡ as well as those of the Court of Session. This court, which consists of the whole judges *in presentia*, nine being a quorum, now meets once a fortnight during the session time, at ten o'clock in the forenoon, and the whole day is devoted to teind business.§

The powers of the court, by a late act of parliament, have undergone considerable alteration and enlargement, in the augmentation and modification of ministers' stipends, viz. 48 Geo. III, c. 138.

It was formerly a matter of doubt, whether the powers of the court permitted the re-augmentation of a stipend

\* Act 1617, c. 3.    † Act 1707, c. 9.    ‡ Kilmoden, 8th July 1784.  
§ By Act 48 Geo. III, c. 138, sec. 15.

which had been augmented since the union. This doubt was, however, removed, by a decision in the case of Prestonkirk in 1808, affirmed on appeal; and now, by statute, stipends are allowed to be re-augmented. But those which had been modified before the 12th March 1808, are not to be again augmented for fifteen years after the date of the former decret of modification.\* And those stipends which were augmented since that period are not to be so a second time for twenty years thereafter.† But from this rule were excepted, all processes which had been brought into court prior to the 12th March 1808, and such as were under appeal to the House of Lords. It was declared competent for the pursuer, either to suspend these actions, until the lapse of fifteen years from the last decree of modification, or bring them to a conclusion. In the latter case, the court was empowered to augment or not as they saw occasion, and if they did, such stipends were not to be altered for twenty years thereafter.‡

It had long been uncertain whether a modification could take place in victual, where the teinds were valued in money; or *vice versa*. But it is now appointed that every stipend shall be modified wholly in victual, even although a part or the whole of it had been previously modified in money, or although part or the whole teinds had been money teind.§ There are two exceptions to this rule. "Where it shall appear necessary. 1. From the state of the teinds and the interest of the benefice," *i. e.* where the whole teinds of a parish are awarded to a minister, they are to be paid either in money or victual, according to the mode of their valuation; and, 2. "On account of the articles other than victual which have been in use to be delivered in kind as stipend:" this relates to the stipends in Orkney and Shetland, where teinds are valued in fish, butter, &c., which could not be converted into victual, and therefore in these islands this rule is often dispensed with.

\* Act 48 Geo. III, c. 138, sec. 1.      † *Ib.* sec. 2.

‡ *Ib.* sec. 3, 4, 5.      § *Ib.* sec. 8.

In former times, when augmentations were granted, the victual part was simply ordained to be paid to the minister, who was entitled to receive the *ipsa corpora*. But a new and better mode is now introduced, by which ministers are not to receive any of their stipends in kind, but in money, according to the fiar prices of that description of grain into which the same is modified;\* and former money stipend is also to be converted into grain, and paid according to the rate of the fiars.†

There is a provision, by which if “no fiars of the kind of grain modified are struck in the county where the parish is situated, it is competent to fix upon two or more adjoining counties, or such as shall be deemed most suitable to the circumstances of the case,”‡ and appoint the stipend to be paid accordingly. Fiars, it is believed, are now struck in every county in Scotland. It still remains uncertain whether the rule relating to fiars can apply where the whole valued teinds of a parish have been modified. In one case, the whole teinds of the parish were given in victual, and made payable between Yule and Candlemas.§ In another, the whole teinds were awarded in victual, to be paid annually by the county fiars.|| This appointment respecting the payment of victual by the county fiars, only applies where there has been an augmentation; and victual stipends payable in kind before March 12, 1808, must so remain until a new modification be obtained.

It had been a practice both before the union and for some time afterwards, to ratify extrajudicial contracts of modification; but now private contracts with heritors are prevented, and collusive practices guarded against by express statute, which ordains, that in cases of augmentation, the moderator and clerk of the presbytery of the bounds are to be summoned and furnished with a statement of the present stipend, and the addition intended to be craved, and that the presbytery appears as a party.¶ In one case a presbytery interfered, supposing that three

\* Act 48 Geo. III, c. 138, sec. 11. † Ib. sec. 9. ‡ Ib. sec. 10.

§ Minister of Kilmoden v. Heritors, 15th Feb. 1812.

|| Minister of Galston v. Heritors, 22d June 1814.

¶ Act 48 Geo. III, c. 138, sec. 17.

chalders, which the minister asked, were too little; and collusion being suspected, five chalders were awarded.\*

A minister out of the teinds of whose parish a stipend has been modified to the incumbent of another, is allowed to reclaim them where the funds are not sufficient for his support. † And he whose stipend is affected by the claim, is entitled, upon a process for that purpose, to full compensation from the teinds of his own parish. ‡ But *heritors* are not permitted to object to the payment of a minister of another parish, where it has been established by a proper decret and long usage, or by long usage only. §

Teinds only are affectable by this court in the case of augmentations. Ministers of burghs cannot prevail, although they shew that the corporation of the burgh possesses sufficient funds, unless they establish that these funds are derived from teinds. ||

Modifications were formerly often given in equal proportions of oatmeal and bear (big), at that time the usual crops in Scotland. But of late years, a great deal of barley having been raised, that kind of grain has usually been given in place of bear. Still it is doubtful if barley should be awarded in those parishes where there is none raised. The decisions on this point are not uniform. In some cases lately decided, ¶ barley was given although

\* Minister of Galston and Presbytery of Garioch v. the Heritors, 18th Dec. 1811.

† Johnston v. the Heritors of St. Cuthberts, 3d March 1803. Ministers of Broughton and Stobo, 4th March 1812. Ministers of Swinton and Eyemouth.

‡ Minister of Brechin v. Heritors, 24th Jan. 1810.

§ Heritors of Dornoch v. Lary, 7th Feb. 1720.

|| Ministers of Edinburgh v. Magistrates, 12th Dec. 1764. David Wilkie, 13th Feb. 1793.

¶ Monymusk, Fintry, Deer.

These cases proceed on specialties. Suppose the plea of necessity to exist equally in regard to both incumbents; then inquiry would be made which had the best right. There are several ways in which such claims originated. The lands out of the teinds of which the payment is made may have been originally in the parish which possesses the payment, and the right to it constituted by the terms of the disjunction and erection, by which the teind only which remained unaffected by a stipend to the original parish was taken from the one and added to the other parish. Evidence of this would not be required so as to annul the long use of payment, if the parishes should be contiguous, though no memorial of the fact of disjunction were extant. The payment in question may have been an endowment or grant of teinds out of lands in the

none was raised in the parish: In others, \* bear was awarded: But in one of them, upon a reclaiming petition, half a chalders of victual was given for the exchange. † But the rule is certainly meal and barley, the exceptions being mere recommendations, founded on some special expediency.

In judging of a case of augmentation, the court were of opinion that a glebe of an extraordinary value should be taken into account; ‡ in another instance, the majority seemed to think, that if a large portion of land had been designated from the heritors as glebe, it should be taken into consideration; but if it had been given *aliunde* by way of mortification, it ought not. §

By the last act, such of the clergy as want both a manse and a glebe, and cannot be provided therewith by law, are entitled to have their stipends augmented out of the parliamentary fund to £200; and such of them as want a manse only, or a glebe only, to £180.

In decreets of modification, vicarage teinds are sometimes noticed. In some cases they are ordered to be paid according to use and wont; || but in others, the parish is declared free from the payment of them, and that those formerly paid to the minister should pertain to the patron, and others having a claim to them. ¶

From the depreciation of the value of money, and the want of funds from the valuation of teinds, joined to other causes, many stipends became inadequate to the maintenance of the incumbents. This distress called for the interference of the legislature; and accordingly ten thousand pounds are now annually set apart out of the public revenues, to augment such stipends to the yearly amount

parish, the incumbent of which now reclaims them by the right now emerged to him, namely, his requiring them in support of the competency of his stipend. The other minister must in this case yield, however hard the infringement may bear upon him. The case of Dunkeld is a good example of this.

\* Chapel of Garioch, 23d Nov. 1808. Tarland, Jan. 1813.

† Migvie, Jan. 1813.

‡ Minister of Old Deer v. Heritors, 23d Nov. 1808.

§ Minister of Buitte, 22d Nov. 1809.

|| Whitsome, 20th Jan. 1718. Minister of Wick, 18th Feb. 1719.

¶ Aberlot, 20th Feb. 1716. Falkland, 7th Feb. 1722.

of one hundred and fifty pounds sterling. Presbyteries are ordained to give particular reports of the parishes within their bounds, whose stipends do not amount to one hundred and fifty pounds yearly, and whose teinds will not permit any augmentation. When these reports are adjusted and recorded, a certified copy is transmitted to the barons of Exchequer, who issue precepts to ministers for payment of their augmentations, which is done half-yearly. In cases of death or removal, the barons, upon the application of the successor, issue a precept in his favour. There are several other regulations which it is unnecessary to notice, the statute having already been generally carried into effect. A further depreciation in the prices of victual, &c. having taken place subsequent to the passing of that act, another was passed to make good the deficiency of £150 in the case of smaller livings,—and both statutes will be found at pages 383 and 394 of this volume.

In fixing augmentations, various circumstances guide the court. Teinds being the only fund from which they can augment, they first inquire into the extent of the unappropriated teinds, and what remains above the existing stipend. Where the teinds are valued, an augmentation may exhaust, but cannot exceed the valuation. And if the heritor chooses to surrender his teinds, and thus pay in money according to the terms of his valuation, in place of victual in terms of the decret of augmentation, the latter must succumb to the former, and the decret of locality to ensue will settle the succedaneum, according to the fiars prices of the last seven years. Where they have not been valued, the fifth part of the real rental is assumed as the teinds of the parish. The court also take into view the extent and population of a parish, the burden of the cure, and the price of living. They also pay respect to the rental, even where the teinds are valued, as affording some proof of the opulence of a parish, and the ability of the heritors to pay an appropriate stipend.



## PROCEDURE IN A PROCESS OF AUGMENTATION.

The *pursuer* in a process of augmentation, modification, and locality, is generally the minister: But a process may be brought at the instance of the titular, or the patron having a right to the teinds. In vacant churches, processes of augmentation have been begun in the name of the moderator of the presbytery and procurator for the church.\* An assistant and successor to a minister cannot pursue an action of augmentation.†

The *defenders*, who must be called as parties, are the titular or patron having right to the teinds, their tacksmen in possession, the heritors, the officers of state, if the crown be interested, and the moderator and clerk of the presbytery. It is held to be a good objection, that any of the parties interested are not cited.‡

Actions before the teind court usually commence by a summons, signed by the clerk of court,—a writ proceeding in the king's name, passing under his signet, and generally executed by a messenger-at-arms, who returns an execution of the citation. But by a late act of sederunt,§ it is declared competent in summonses of augmentation, modification, and locality, to cite titulars and tacksmen of the teinds, heritors, and others having interest in the teinds, by giving notice from the precentor's desk, on three consecutive Sundays, before the dismissal of the congregation from the forenoon service, that the minister has raised a summons of augmentation, specifying the day on which it will be called; which must be six weeks, at least, after the date of the first notice. The precentor gives a certificate of these intimations having been made in the presence of two of the parishioners, who subscribe as witnesses. A notice, in like terms, must also be affixed to the most patent door of the church, on the day of the first notice from the desk, by a messenger-at-

\* Coul, 22d July 1719. Cairney and Botany, 1st June 1720.

† Shaw v. Heritors of Robertson, 19th January 1806, Fac. Coll.

‡ Bower, 16th July 1718. Thurso, 8th July 1721.

§ Founded upon sec. 16, act 48 Geo. III, cap. 138.

arms or constable ; who returns a certificate of his having done so, subscribed by himself and two witnesses. A similar notice must be inserted three several days, in the Edinburgh Courant, and Edinburgh Advertiser, the first insertion being not less than six weeks before the day of calling the cause.

This mode of citation, the *induciæ* being run, is sufficient, although one or more of the defenders be a pupil, or minor, or out of the kingdom at the time. When it is necessary to call the officers of state for his majesty's interest, it is to be done in the manner that has hitherto been in use ; upon an *induciæ* of six weeks. It is an effectual intimation to the moderator and clerk of the presbytery, that the pursuer himself write to them, "stating the amount of his present stipend, and the addition he means to crave," provided that such letters be inserted in the presbytery records, one month before the summons is called in court.

The pursuer must produce, along with the summons, as evidence of the citation, 1. A certificate by the precentor of the parish, and messenger or constable, of the several intimations before explained : 2. The newspapers in which the notices appointed by the act appeared : 3. The execution of citation to the officers of state, if they be parties : And 4. A certificate from the presbytery clerk, that the pursuer had intimated his action by letter to the moderator and clerk ; and that his letter had been duly recorded in the presbytery books.

Callings, outgivings, returnings, enrolments ; all the rules of procedure after enrolment, till the final decision properly belong to the agent conducting the process, wherein the minister cannot interfere.

The heritors bear no part of the expense which has been incurred in obtaining an augmentation. This is borne exclusively by the minister. The expense of extracting the decret, if the locality is unnecessary, falls on the minister ; but if a locality be necessary, then the expense of the locality, and of the decret of modification and locality falls upon the heritors, who must put the minister in possession of the decret accordingly.

**A**  
**DIGEST OF DECISIONS**  
**IN THE**  
**Law of Scotland,**  
**RELATIVE TO**  
**THE CIVIL RIGHTS OF THE CHURCH**  
**AND CLERGY.**

THE civil rights of the Church of Scotland, as an establishment fully sanctioned by numerous statutes of the legislature, and rivetted by consuetudes clothed with the character of common law, embrace a wide field, and afford sufficient materials for dissertations on many points ;— and independently of the works of institutional writers at different periods, they have supplied topics for two standard works by Sir John Connell, the procurator for the church, on tithes and parishes. Without, however, aspiring to the task of compiling elaborate disquisitions on the numerous subjects which the larger books of the law supply, it seems more expedient and consistent with the compendious nature of this collection, rather to digest the principles which have been laid down and settled in decided cases under different heads, in such a form as may supply parties interested with a general view of the law, and as may serve for a practical guide to them in consulting more extended records. Such a digest, it is apprehended, will be found more satisfactory than the information which is to be found at present in any of the minor publications on our ecclesiastical law ; and therefore, instead of either revising and correcting any of those slight notices which we find annexed to Mr. Gillan's *Abridgment of the Acts of Assembly*, or other works of that description, a simple statement of the decisions, properly classified, shall now be given—bringing the decisions on each particular point down to the latest possible period.

It is almost unnecessary to add, that for the materials of this Digest we are indebted to Mr. Brown's excellent Synopsis, and the decisions collected by the Faculty of Advocates, by Messrs. Shaw and Dunlop, and others. The following Digest will be found to contain, not only decisions which may be necessary for understanding the civil rights of the Church, but such also as may be useful in directing its judicatories in the discharge of their duties.

The abbreviations " Dict." and " Sup." annexed to the several cases, refer to Morison's Dictionary of Decisions and the Supplement thereto.

## DIGEST, &c.

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### ADULTERY.

1. ADULTERY was found *proved*, though not any two of the witnesses concurred in the same individual act; for in such crimes, which allow of a reiteration of acts, all proceeding from the same *animus*, like so many links of a chain, the *semiplena probatio* of every one fortifies the whole, and makes it equivalent to the full proof of two concurring witnesses to one specific act. *Lady Milton v. Lord Milton*, 25th Feb. 1667, Dict. 12,636, and 12,101, Sup. II, 438.

### ANNAT.

1. Conform to an order set down by the bishops 1613, if a prelate or minister die before Michaelmas, the relict and children will have only that year's rent wherein he dieth, but if after, they will have the half of the next year too for their annat. *Minister of Deir against his Predecessor's Relict*, 19th July 1626. Sup. I, 36 and 137.

2. In an action of tutor-counts betwixt the bairns of the bishop of Galloway, and Andrew Couper their tutor, an article of defalcation of the charge being given in by the tutor, whereby he craved allowance of a pension given to him by the bishop, during his lifetime, to be allowed to him particularly of that year after the bishop's decease, the annat whereof pertained to his relict and bairns, conform to the ordinance of the kirk, which provides the fruits of the benefice for the year after the late incumbent's decease, to pertain to his wife and bairns; and

therefore the tutor craved the pension of that year to be allowed to him ;—and the minors alleging, that the pension lasting only for the giver's lifetime, could not extend to that year ;—the Lords allowed of the article of defalcation, and found that the tutor ought to have that year's pension allowed to him in his intromission with the minor's goods. *Durie*, p. 351, *Bairns of the Bishop of Galloway* against *Couper*, 28th Feb. 1628, Dict. 470.

3. The annat found to extend only to half a year more than the defunct had right to, *proprio jure*. *Ker v. Parishioners of Cardine*, 26th July 1661, Dict. 461.

4. Annat found formerly to extend to a whole year. *Smeiton v. Minister of St. Bothans' Relict*, 16th June 1629, Dict. 461, and afterwards *Wemyss v. Parishioners*, July 1662. See act 13, Parl. 1672, Dict. 462.

5. Annat divides betwixt the wife and nearest of kin, where there are no bairns. *Scrimzeor v. Murrays' Executors*, 24th June 1663, Dict. 464. *Spence and Clark v. Craig*, 22d Jan. 1679, Dict. 465.

6. The annat extends to the property of the glebe, if there be no new entrant. *Scrimzeor v. Murrays' Executors*, 19th July 1664, Dict. 464, otherwise the glebe falls not under the annat, except the crop thereof, if it was sown before the minister's death. *Colvil* against *Lord Balmerrino*, 6th July 1665. Dict. 464.

7. Annat belongs to the nearest of kin, there being no wife or children of the defunct. *Same parties*, Dict. 466, and 3893.

8. The manse being indulged by the law to the wife, bairns, and nearest of kin of the defunct minister, and originally their right needs no confirmation. *Ker* against *Parishioners of Cardine*, 26th July 1661, Dict. 461. *Ker* against *Parishioners of Morvinside*, 16th July 1673, Dict. 471.

9. A minister having died in April 1669, the whole of that year's stipend was decerned for as annat. *Turner* against *Lord Borthwick*, 3d November 1671. Sup. I, 639.

10. Annat due by the death of the incumbent, before the late act of parliament, is regulated according to our

old custom, albeit the term of payment was not then come, but the incumbent died before the 1st of January. *Birnie* against *Lockhart*, 9th July 1675. Sup. I, 741.

11. A minister who had sisters, having assigned his annat to his brother's son, the Lords found that it belonged to the nearest of kin, *proprio jure*, and not to the assignee. *Alexander v. Cunningham*, 18th March 1686, Dict. 470.

12. The annat is a legal gratuity in favours of the wife, children, or nearest of kin, that cannot be burdened with the defunct minister's debts, not being *in bonis defuncti*. *Donaldson v. Brown*, 20th Feb. 1694, Dict. 471.

13. In a question whether the annat (whereof the terms of payment are determined by the act of parliament 1672) be due to the relict and children of a stipendiary minister of a burgh, whereof the stipend is paid by a contribution, there being no tithes out of which it can be paid, though it is commonly looked upon as a *debitum fructuum* only, yet the Lords found all stipendiary ministers included in the act, whether paid in money or victual, and therefore found an annat due here. *Shiel's Representatives v. Town of St. Andrews*, 8th Feb. 1709, Dict. 466.

14. One of the ministers of Edinburgh having died between Michaelmas and Martinmas 1741, his next of kin were found entitled to the half-year's stipend payable at Whitsunday 1742, as annat. Annat is due although the stipend is not paid out of teinds, but made up by contribution. *Hutchison v. Magistrates of Edinburgh*, June 1747, Dict. 467. Elchies, *h. t.* 1.

15. In a question betwixt the relict and children, the annat is not divided *in capita*, but the relict has the half. *Children of M'Dermet v. Montgomery*, July 1747, Dict. 464. Elch. *h. t.* 2.

ANNEXATION, *quoad Sacra*.—(*Vide Stipend.*)

## ANNUITY OF MINISTER'S WIDOW.

Annuities due to the widow of a Scots clergyman, in virtue of the act 17th Geo. II, c. 11, not assignable before the term of payment. *M'Kensie against Morrison*, 19th May 1791, Dict. 10,413. Bell, 326.

AUGMENTATION.—(*See Stipend.*)

## BEADLE.

Found that the nomination of a beadle was not in the minister and his session, but in the magistrates of a royal burgh. *Magistrates of Elgin against Kirk-Session*, 4th Dec. 1740, Dict. 7916. Elch., *Kirk-Session*. Sup. V, 599.

## BELL.

Heritors of the landward part of the parish of a royal burgh were found obliged to contribute to the buying of a bell for the church, in the same proportion as for repairing the church. *Parish of Inverkeithing v. Lady Rosyth*, 15th Feb. 1642, Dict. 7914.

## BISHOP.

The title of a bishop of the episcopal communion in Scotland not recognized as a *nomen juris*. *Dr. Abernethy Drummond v. Farquhar, &c.*, 6th July 1809.

## CHURCHES.

1. The right to a seat in a church is a civil interest in which the church is not sole judge; if they do wrong,



their sentence may be rectified. *Bird v. Justice*, 17th Feb. 1693. Sup. IV, 77.

2. In building a church, the heritors have the right of superintending the operation, and when the presbytery act, they are held to act entirely for the heritors. *Dunbar, &c.*, 29th June 1804, Dict. App. *h. t.* 11.

3. Building and repairing churches is under the jurisdiction of the presbytery of the bounds. *Minister of Dunning v. the Heritors*, 10th June 1807, Dict. Ap., *Kirk*, 4.

4. It is part of the radical jurisdiction of presbyteries, as to rebuilding of kirks, to order and receive plans and estimates, and to appoint them to be carried into execution; and the heritors are only entitled to state objections, not to insist on choosing a plan for themselves. *Campbell, &c.*, 19th May 1815.

#### CHURCH LANDS.—(*Vide Glebe.*)

#### CLANDESTINE MARRIAGE.

1. The fine for clandestine marriage does not go to the procurator-fiscal, but must be applied to pious uses within the parish, under burden only of the expenses incurred by the fiscal in prosecuting. Found also, that the minister of the parish has no right to discharge the fine. *Procurator-Fiscal of Annandale v. Carruthers*, 7th Dec. 1705, Dict. 2251. Sup. V, 23.

2. Found that the kirk-session had no title, on any acts of parliament, to pursue for fines of a clandestine marriage; although, when regularly imposed by the judge of the jurisdiction, the kirk-session is entitled to a share. *Kirk-Session of Dundee v. Hackney*, 14th Nov. 1761, Dict. 2253.

## GLEBE.

## I.—WHAT MINISTERS ARE ENTITLED TO A GLEBE.

1. Notwithstanding that ministers of country parishes, and not those of royal burghs, are, by act of parliament, to have glebes, yet the Lords found a glebe due to the minister of a burgh royal, in respect the act 21st parliament 1663 only means such burghs as have no landward at all in the parish. *Anderson v. His Parishioners*, 17th Dec. 1664, Dict. 5121. Sup. I, 504. *Paterson v. Watson*, Sup. II, 136.

2. Found that the minister has right to crave grass, to be designed by him out of the landward parish, or the sum of £20 yearly for foggage, reserving to those out of whose lands the said designation shall be made, their relief against the rest of the heritors of kirk-lands within the parish, conform to act 21st parliament 1663. *Williamson v. His Parishioners*, 26th March 1685, Dict. 5121.

3. (1.) Found, that though a minister had been in use immemorially, to graze his cattle with a neighbouring tenant, this did not bar his claim to a designation of grass. (2.) The statute forbidding arable ground to be designed for a minister's grass, is to be understood of infield ground. *Pringle v. His Minister*, 15th Feb. 1765, Sup. V, 903.

4. A minister in a royal burgh having a landward territory annexed to it, has right to a glebe, there being church-lands within the parish. *Fullerton v. Richmond*, 17th Dec. 1779, Dict. 5123.

5. When a minister is deprived of his manse and glebe, by a contract, which is saved from reduction by a prescriptive title, he is nevertheless entitled to a new designation. *Minister of Falkland v. Jahnstone, &c.*, 8th Feb. 1793, Dict. 5155.

6. A minister is entitled to a grass glebe though his predecessor has been in use to accept of a sum of money in lieu of it, for twice the period of the long prescription. *Lawrie v. Halket*, 10th Feb. 1804, Dict. App. h. t. 4.

7. A full grass glebe may be designated to a minister, although his arable glebe exceeds four acres. *Dundas and Others v. Sommerville*, 6th Dec. 1805, Dict. App. h. t. 5.

8. A minister cannot insist for a grass glebe, his predecessor having, with the concurrence of the presbytery, accepted of £20 Scots in lieu of it. *Minister of Dollar v. Duke of Argyle*, 9th July 1807, Dict. App. h. t. 7.

9. Right to grass glebe not taken away by immemorial payment of £20 Scots instead of it, if no authority appear for this annuity being a legal equivalent. *Minister of Panbride v. Maule*, 18th May 1809.

10. Under the act 1663, c. 21, the minister of a parish in which there are no church-lands but what are arable, is not entitled to more than £20 Scots in lieu of grass for a horse and two cows. *Carfrae v. Heritors of Dunbar*, 13th May 1814.

11. Designation of certain lands for a minister's grass glebe objected to, on the grounds that there had been a payment in lieu of such grass glebe for about a century, of £20 Scots (but no decree of presbytery for it appeared on record,) that the ground was arable and under cultivation at the time of the application for the designation, and that the lands designated were not those nearest the church. Pleaded on the other hand, that there being no recorded decree of presbytery, the presumption was that the payment arose from a private agreement between the heritors and minister for the time being, not binding on the successors; that the lands in question were best adapted for pasture, and the nearest to the church that were convenient for the purpose. Judgment for the minister,—affirmed above, with £80 costs. *Anderson v. Thomas*, 4th and 6th July 1814, Dow, II, 433.

12. It is incumbent on the minister of a parish pursuing for a grass glebe, to point out the church-lands from which it is to be designed. *The Minister of Panbride v. Maule*, 24th Jan. 1815.

13. The second minister of a royal burgh is not entitled to have a manse and glebe designed to him under the act 1663, c. 21, although his stipend is paid from the teinds of the parish. *Adamson v. Paston*, 14th Feb. 1816.

## II.—RIGHT TO GLEBE IN UNITED PARISHES.

1. In anno 1618, one kirk being united to another by act of parliament, the first having a glebe, and the other never having had any, the Lords found, nevertheless, that the minister could not be excluded from seeking a glebe in the other also, although thereby he would have two glebes. *Rough v. Ker*, 22d Jan. 1631, Dict. 5124.

2. Though a minister have no more than four acres of glebe, the 48th act 3d parliament James VI, does not restrict him to that quantity, and he may, notwithstanding, seek one horse and cow's grass upon the 21st act 1663; and a minister of two united kirks, having betwixt the two twelve acres of glebe, was found entitled to grass by the said act. Found that the kirk-yard ought not to be used for pasturage, nor computed as part of the minister's grass. *Beaton v. Dallas*, 8th Feb. 1734, Elch. h. t. 1.

3. A minister of a united parish which consisted formerly of three parishes, having three glebes, each of them separately being below the legal standard, but when taken together considerably above it, and sufficient also for grazing a horse and two cows, was found not entitled to an additional designation, either of arable ground or grass, which he demanded upon act 48th parliament 1572, and act 116, parliament 1592, appointing to ministers four acres and a half out of the church-lands lying nearest to the manse. *Forbes v. Miller*, 26th Nov. 1755, Dict. 5127. Sup. V, 304.

## III.—JURISDICTION OF PRESBYTERIES IN DESIGNATION OF GLEBES.

1. The Lords advocated *simpliciter* the designation of an augmentation of a glebe, and refused to remit the same to the presbytery, with instructions, they having made the designation out of lands that were not church-lands, though there were church-lands in the parish, and had appointed the private road to the glebe to be twenty feet broad, &c.; though they alleged, That the presby-

tery's jurisdiction in such designations was privative, as the bishop's was. *Potter v. Ure*, 5th Dec. 1710, Dict. 5129.

2. Found, that it is in the minister's option either to take £20 for his grass, or to seek land to be allocate to him for that use; but that the presbytery must not pitch upon arable land that has been in use to be tilled; yet so that heritors on the other hand must not, in *cemulationem*, till up that which was in use to be lee, since so they might leave nothing for the minister but moss, muir, hills, or rocky ground, to the defrauding the good design of the law, and the minister's manifest prejudice. *Steel v. His Parishioners*, 31st Jan. 1712, Dict. 5131.

3. The presbytery having designed a horse and two cows' grass, the Lords, in a suspension, ordered a visitation by two of their number, altered it in part, and gave the minister some ground not formerly designed, in place of a part of what had been designed by the presbytery, and that without remitting to the presbytery to make the alteration, though the court has no original jurisdiction in these designations, but only power to review. *Steel v. Dalrymple*, 15th June 1751, Elch. h. t. 4. Dict. 7439.

4. A minister is entitled to have half an acre of ground for the stance of his house, stable, barn, byre, and garden, and what he wants of that quantity may be designed to him by the presbytery out of any lands contiguous to his manse, whether church-lands or others, the proprietor of such lands having his relief against the whole heritors of the parish. *Anderson and Others*, 22d Nov. 1791, Dict. 5152.

#### IV.—FORM OF DESIGNATION.

1. The Lords sustained a designation of a glebe although it was not measured, because the designation bore that the metting was hindered by the defender's servants, who threatened the metster, and would not suffer the commissioners to use the order appointed by the act of parliament, so that they were constrained to design the

glebe, without metting, according to their own estimation. *Kerse v. Reid, minister*, 5th July 1626, Dict. 5132.

2. The designation of a glebe was found null, notwithstanding it bore to be made by the moderator and others of the presbytery, with the advice and assent of the whole elders and honest men of the parish, because there was none denominated *specific*; nor did it bear, that the presbytery had given warrant to the moderator to design it. *Hamilton v. Athlinton, &c.* 13th June 1628, Dict. 5134.

3. In a removing at the minister's instance against the heritor, out of whose lands the glebe was designed, the designation was sustained, though the intimation to the parishioners was not mentioned in the designation, it being alleged as constant custom that there is only intimation given at the kirk door, or out of the pulpit, of the day of designation.—*Mushet v. Duke of Buccleugh*, 28th Jan. 1668, Dict. 5135.

4. Designation of a glebe was sustained, though done by two ministers, the bishop's warrant being to three, without a quorum, unless weighty reasons upon the prejudice of parties were shown.—*Minister of Cockburnspath v. His Parishioners*, 7th Feb. 1668, Sup. II, 141.

#### V.—GLEBE, OUT OF WHAT LANDS DESIGNABLE.

##### 1. Church Lands.

1. Found that a minister may get the kirk-lands nearest to the kirk and manse designed to him, although the same have been lately built up in dwelling-houses.—*Cuningham v. Lord Kirkmaholm*, 6th Jan. 1594, Dict. 5135.

2. The situation of a kirk being altered from one place of a parish to another, with consent of the parishioners, though without an act of parliament or of the commission, yet the minister wanting a manse or glebe, or part thereof, the Lords found, that what he wanted might be designed to him out of the kirk-lands lying most ewest to the new kirk, because of the consent of the parishioners.—*Cheyne v. Parishioners of Manela*, 3d Feb. 1629, Dict. 5136.

3. Chaplain-lands ought not to be designed for a glebe, so long as their kirk-lands may be had within the parish. *Haliburton v. Paterson*, 13th July 1636, Sup. I, 362. Dict. 5138.

4. The Lords found that the 48th act parl. 1572 was conceived as well in favour of the heritors as of the ministers; and therefore, if there be church-lands of the same holding near his manse, that he must not pick and choose to design land that lies remoter from him, because better. *Muir, minister of Fraserburgh v. the Heritors*, 1st Dec. 1680, Dict. 5140.

5. Temporal lands cannot be designed for a glebe in a parish in which there are church-lands, however distant they may be from the manse. *Minister of Kingsbarns v. Erskine, &c.*, 10th June 1794, Dict. 5140, Bell 27.

6. Lands are liable to be designed for glebe, as church-lands, although the superiority of them only had belonged to the church for a long period before the Reformation; and when, at the time of designing a glebe, there are lands in a parish held of the crown in right of a priory, others held of the crown in right of a bishop, and others by a university in right of the priory, the first are primarily liable, the bishop's lands in the second place, and the others only *ultimo loco*, whatever may have been the description of the lands at the Reformation, or date of the act 1593, c. 165. But this arrangement may be prevented by special circumstances. *Minister of Kingsbarns v. Balfour Hay, &c.*, 11th June 1799, Dict. App. h. t. 2.

7. Land designed by a presbytery for grass to the minister, having in the course of an unsuccessful litigation, on the plea that it was not church-land, been improved by the proprietor so as to be much more productive; found that the extent ought to be regulated by the state in which the land was at the date of the decree of the presbytery. *Wilson v. Forbes' Trustees*, 10th June 1818. Remitted on appeal, Fac. Coll. xx, 677.

8. Held (reversing the judgment of the Court of Session) That certain lands which had been held in common by the Abbey of Holyroodhouse and the family of

Livingstone of Callendar, were not kirk-lands, liable to be allocated to the minister of the parish as a grass glebe. *Forbes' Trustees v. Wilson*, 24th July 1822, Shaw's Appeals, I, 249.

#### *Arable Lands.*

1. Found, That a minister may get his glebe designed, although the lands be meadow and myre, and part thereof houses and yards, set out to feuars, because the words *arable lands* in the act of parliament are conceived in the minister's favours, so that he may seek other lands where there is no better to be had : and as to the houses, yards, &c., the Lords found that he could not be debarred thereby, there being no other kirk-lands in the parish. *Lamont v. Bennet*, 13th July 1636, Dict. 5137, Sup. I, 363.

2. An heritor, whose land had been allocated for a minister's grass, complained that the land was arable, and could not therefore be allocated by act 1663 ; which, where kirk-lands are arable, appoints £20 to be given in lieu of grass to the minister. The Lords found, that by the term *arable* is not meant what is capable of culture, as, strictly speaking, no lands are incapable of it, but such only as are in use constantly to be laboured. *Steele v. Dalrymple*, 27th July 1748, Dict. 5161.

3. The court thought, that by arable lands, the act of parliament did not mean either lands that by industry could be laboured, for all lands are arable in that sense, nor yet lands that were constantly in tillage, for in that sense some of the best grounds would not be accounted arable ; but such grounds as of their own nature were arable, and now are or have been in use to be tilled in their course with the other grounds of the farm ; and lands not arable, such as were not proper for tillage, and have not been usually employed in tillage. And, therefore, the presbytery of Dunfermline having designed for grass to the minister of Dunfermline, grounds very valuable, one acre whereof, though wet and not proper to be dunged, yet was immemorially laboured and left out in grass alternately with the rest of the farm, that is, three years in oats, and three or four years in grass, and the



rest of it was in use to be dunged and sowed alternately with bear, pease, and oats, and then laid out in grass as the other acredale lands; we thought these were, in the construction of law, arable lands, and therefore suspended the letters *simpliciter*, reserving to the minister to insist for his £20. *Minister of Dunfermline v. Black*, 20th June 1751, Elch. *h. t.* 5.

4. Found that, in virtue of the act 21st parliament 1663, ground may be assigned to a minister for grass, though it has been in use of being ploughed up for three years, and lying in grass for three years alternately. *Hodges v. Bryce*, 27th Feb. 1756, Dict. 5162.

5. By arable lands in the statute 1663, are to be understood those which are in a continued state of cultivation, though bearing occasionally crops of grass, and not constantly under the plough. *Greirson v. Ewart*, 26th June 1778, Dict. 5162. Hailes, 799 and 888.

6. Grounds which are liable to be overflowed at certain seasons of the year, or such as are in some respects inconvenient for pasture, may notwithstanding be allocated for grass to the minister, if not in use to be cultivated with the plough. *Heritors of Kirklands in the parish of Peebles v. Dalgleish*, 23d June 1784, Dict. 5163.

7. Grass glebe cannot be designed out of land that is *bona fide* in a course of cultivation. *Minister of Panbride v. Maule*, 18th May 1809.

8. Found that lands which had been brought into a state of high cultivation, although for thirty years immediately preceding the application they had been laid down in grass, were not liable to be designed for a grass glebe. *Bruce, &c. v. Carstairs*, 30th May 1826.

#### *Bishop's and Abbot's Lands.*

1. Found, that bishop's lands, although most ewest to the manse, cannot be designed where there are abbot's lands in the parish, although they have been possessed by ministers, and environed by the manse and old glebe. *Nicolson v. Porteous*, 28th June 1622, Dict. 5136.

2. In a removing from a glebe, this defence, that there was land nearer than the land designed within the pre-

cincts of an abbey, was repelled ; because the abbacy was annexed to the crown, and the lands now imparked and never tilled. *Lord Dunfermline v. M'Gill*, 13th Feb. 1629, Dict. 5137.

3. A glebe was found not designable out of the abbey-lands, where there were parson's lands ; which the Lords found ought first to be discussed, although the same were of old feued, and a part of a town built thereupon, and consequently not arable land ; yet the feuars were found obliged either to remove or purchase another glebe to the minister ; and this because the act 48 parliament 1572 seems to extend as well to the glebe as to the manse. *Nairne v. Boswell*, 24th July 1629, Dict. 5137.

4. In a dispute about the designation of a glebe, the Lords found, that abbot's, prior's, or bishop's lands ought to be first designed, before lands belonging to a chaplainry could be acclaimed ; although the chaplain lands were at hand, and the other three miles distant, which is a great inconveniency to the incumbent ; and found, that the act of parliament, speaking of contiguity, is to be understood, that the most ewest lands of the same kind should be designed. *Haliburton v. Paterson*, 13th July 1636, Dict. 5138. Sup. I, 362.

5. Parson's lands must be designed, in the first place, for a glebe, before bishop's lands, according to the order of the act 165, parliament 1593. This found, though the parson's lands were feued out before the act, and built with houses incorporate within a burgh royal. *Parson of Dysart v. Watson*, 25th Jan. 1665, Dict. 5139 and 5121.

6. Found, that friar's and bishop's lands cannot be designed for a grass glebe, while there are parson's and vicar's lands in the parish. *Nicolson v. Earl of Galloway*, 12th June 1823.

#### *Temple Lands.*

1. In a pursuit at a minister's instance against the heritors, for a legal glebe, grass, &c., temple lands were found not to be kirk lands in the sense of the act of parliament. *Duncan v. Parishioners of Kilpatrick Easter*, 12th February 1698, Dict. 5140.

*Miscellaneous Cases.*

1. Out of what lands the glebe is to be designed. *Duke of Buccleugh v. Scot*, 20th July 1670, Sup. II, 497.

2. Question not decided, whether hospital lands ought to be designed before temporal lands. *Forret v. Matters*, 6th Feb. 1678, Dict. 5139.

3. Presbyteries cannot design moss for the use of a minister. *Chalmers v. Duff*, 28th Feb. 1769, Dict. 5147. Hailes, 285.

4. Ministers are not entitled to pasture their cattle in church-yards. *Hay v. Williamson*, 2d Dec. 1778, Dict. 5148. Sup. V, 415.

5. Land not nearest to the kirk, being more commodious for the clergyman, found a good designation. *Anderson v. Thomas*, 22d May 1810. Affirmed on appeal, 5th July 1814. This case is erroneously marked in Fac. Coll. XVII, 683, as reversed on appeal.

6. A presbytery having designed, under the statute 1663, c. 21, to the minister of the parish, a grass glebe out of the kirk lands belonging to one of the heritors whose mansion-house had formerly been built on them ; and the Court of Session (altering the judgment of the Lord Ordinary) having found that the heritor was entitled to object to those lands being so designed, and that the minister was bound to accept a glebe out of other lands, which were not kirk lands, but which were alleged to be equally as good and convenient as those designed by the presbytery, and that he was not entitled to a compensation for the want of a glebe during the litigation, held (reversing the judgment of the Court, but affirming that of the Lord Ordinary) that the minister was entitled to have the glebe designed out of the kirk lands, and to a compensation for the want of it. *Moore v. Belshes*, 21st May 1827. Wilson and Shaw, I, 558.

VI.—A GLEBE BEING ONCE DESIGNED AND POSSESSED,  
THERE CANNOT BE A SECOND DESIGNATION.

1. A glebe once designed and possessed, the Lords refused to allow any new designation, but there being a question about the quantity, they ordained it to be measured of new. *Nairn v. Tweedie*, 25th May 1605, Dict. 5146 and 5143.

2. A minister charging upon his designation to infest him therein, and the feuar suspending on this reason, that there were kirk-lands more ewest—the minister answering in fortification of his designation that his predecessor had possessed the lands for twenty years before as glebe, the minister was preferred.—*Henderson v. Lord Lagg*, 7th March 1610, Dict. 5144.

3. A manse and glebe, long possessed by designation out of lands holden of the king, and most ewest, were found to debar all new designation. *Clark v. Ramsay*, 14th December 1621, Dict. 5144.

4. A presbytery having designed a new glebe to a minister, on pretence that the old one was barren ground, and at great distance from the manse, the Lords, in a suspension of this designation, found that there could be no designation of a new glebe by the presbytery till it had first been cognosed before a judge competent that the first was not sufficient; and found that they were not empowered to change the glebe that had been possessed past memory of man, by giving a new one; but if there were inconveniencies, the minister might pursue declarator before the Lords to get them amended and repaired, and therefore their Lordships reduced this new designation of a glebe, reserving his legal remedies, as accords of the law. *Linnen v. Baillie*, 24th December 1709, Dict. 5145.

5. Found incompetent for a presbytery to design of new, lands which were formerly glebe lauds, but which had been enjoyed by a conterminous heritor beyond the years of prescription along with his own lands; and the

Lords suspended a designation in these circumstances. *Minister of Lochmaben v. Marquis of Queensberry*, 14th Feb. 1829.

#### VII.—FUEL AND PASTURAGE.

1. Found that the minister may get pasturage and fuel in any common where the feuar has pasturage, but not within the feuar's property. *Nairne v. Tweedie*, 25th May 1605, Dict. 5143.

2. A minister found entitled (besides his four acres of glebe) to a horse and two cows' grass out of the vicar's land next adjacent. *Hamilton v. Tweedie* 2d Feb. 1630, Dict. 5146. See act 21st Parl. 1663.

3. A minister not entitled to fuel, except through immemorial use. *Dymock v. Duke of Montrose*, 25th Feb. 1779, Dict. 5149.

4. Held, 1. That in designing sixteen souns of pasture in lieu of an arable glebe, the presbytery are not bound to exclude small patches of arable ground interspersed through it. 2. That, in peculiar circumstances, such a glebe may be designed partly out of ground near the manse, and partly out of moor pasture at a distance. 3. That the amount of a soun must be regulated by the custom of the district. *M'Kensie and Husband v. Crae*, 5th July 1825.

#### VIII.—RELIEF COMPETENT TO THE HERITOR WHOSE LAND IS TAKEN FOR A GLEBE.

1. A man's feu being that which was of old the vicar's manse, which was discharged to be feued out by the act of Parliament 1563, and being now designed and evicted by the minister for his glebe; the Lords, nevertheless, allowed him his relief off the other possessors of kirk lands in the parish, and this although his feu was not confirmed till the year 1565, though granted *in anno* 1562.

*Cock v. Parishioners of Auchtergovan*, 12th Feb. 1635, Dict. 5150.

2. In the same cause, one of the possessors, holding his lands now of a college, to which they were mortified before the act 202, Parl. 1594, which appoints relief, and so seeming to cease to be kirk lands; yet the Lords found that such lands cease not to be kirk lands, and therefore that they ought to pay for relief.

3. Where there is no pasture ground near the manse, and the presbytery appoints a sum in lieu thereof to be paid to the minister, the Lords found, that it was not to be allocated on the heritor whose lands were nearest to the manse and glebe, reserving him relief against the rest, but must be allocated proportionally on the whole heritors of the parish. *Ferguson v. Glasgow*, 3d Jan. 1745, Dict. 5157. Elch. h. t. 3.

4. The grass mail to which a minister is entitled by act 1663, Charles II, is payable by the heritor of the nearest kirk lands, but he has proportional relief from the other kirk lands in the parish. *Dury, &c. v. Thomson*, 12th Dec. 1755, Dict. 5161.

5. A minister having got a grass glebe designed from lands which were of old part of the vicar's glebe, the proprietor's relief found not to be confined to the other feuars of the vicar's glebe, but to extend to all the heritors of church lands in the parish. *Laidlaw v. Eliot*, 2d Dec. 1800, Dict. App. h. t. 3.

#### IX.—INCUMBENT'S POWERS OF ADMINISTRATION.

1. Glebe cannot be feued, even with consent of the presbytery.—*Mackie v. Neill*, 9th Nov. 1736, Elch. h. t. 2.

2. A minister has no power to feu out his glebe, though he may have a feu-duty in his offer greatly superior to what it can yield as a farm.—*Robertson v. Heritors of Little Dunkeld*, 18th May 1791, Bell 235, Dict. 5153.

3. A minister who had discovered a marl pit in his glebe,

offered, if he should be allowed to sell it, to employ the money at interest, or in buying land for the use of the benefice. The Court found that he was entitled to work the marl, provided it could be done without injury from the overflowing of a river, and that the produce should be applied for the service of the benefice.—*Ramsay, minister of Maderty, v. The Heritors*, 14th Nov. 1794, Dict. 5153, Bell 76.

4. The minister of a parish has right to cut and appropriate trees on the glebe.—*Logan, &c. v. Reid*, 16th May 1799, Dict. App. h. t. 1.

5. Right of a minister to work the coal in a glebe.—*Minister of Newton, &c. v. The Heritors of Newton*, 3d June 1807, Dict. App. h. t. 6.

#### X.—MISCELLANEOUS CASES.

1. A minister whose glebe is contiguous to the sea-shore has no right to the sea-ware—this continuing to belong to the proprietor of the lands of which the glebe was originally a part.—*Lord Reay v. Falconer*, 14th Nov. 1781, Dict 5151, Hailes, 890.

2. The Lords were of opinion, that a glebe having been designed and possessed for forty years, an heritor cannot challenge the possession as being beyond the dimensions of a glebe; but that encroachments made by the present incumbent must be deducted.—*Williamson v. Mercer*, 25th January 1789, Hailes, 1062.

3. A minister, on his induction, may eject from his glebe the tenant of a former incumbent without warning, either in terms of the statute 1555 or the act of sederunt 1756.—*M'Callum v. Grant*, 4th March 1826.

4. The proprietor of a surrounding barony having entered into possession of glebe-lands by consent of the presbytery, upon an inchoate contract of feu never completed, and having continued this possession more than forty years, cannot ascribe his possession to his prior infetment in the barony, so as to found a prescriptive right to the glebe-land as a part and pertinent thereof.—*Scott v. Ramsay*, 15th Feb. 1827.

## JURISDICTION OF CHURCH COURTS.

1. The right to a seat in church is a civil interest, in which the church is not sole judge; but if they do wrong, their sentence may be rectified.—*Bird v. Justice*, 17th Feb. 1693, Sup. IV, 77.

2. Complaint against a minister for treasonable practices competent before the presbytery.—*Fraser*, 5th Dec. 1716, Sup. V, 137.

3. Jurisdiction and powers of presbyteries over episcopal clergy; act 1690, c. 5, and 1693, c. 22. *Lyon v. Justices of Fife*, 20th Nov. 1717, Sup. V, 9 and 11.

4. Neither the General Assembly nor professors of universities can make regulations to bind bursars as to their qualifications; and therefore Sir Alexander Ramsay of Balmain having the presentation of certain divinity-bursas in Aberdeen, found that the professors could not refuse them for not having certificates from their presbyteries. *Ramsay v. Chalmers*, 28th July 1736, Elch. h. t. 11.

5. Jurisdiction of presbyteries does not extend to modifying schoolmasters' salaries. *Brown v. Heritors of Dunfermline*, 22d July 1768, Dict. 7689.

6. Presbyteries cannot design moss for the use of a minister. *Duff v. Chalmers*, 28th Feb. 1769, Dict. 5147. Hailes, 285.

7. In building a church, the heritors have the right of superintending the operation; and when the presbytery act, they are held to act entirely for the heritors. *Dunbar, &c.*, 29th June 1804, Dict. App. h. t. 11.

8. Building and repairing churches is under the jurisdiction of the presbytery of the bounds. *Minister of Dunning v. The Heritors*, 10th June 1807, Dict. App. Kirk, 4.

9. It is part of the radical jurisdiction of presbyteries as to rebuilding of kirks, to order and receive plans and estimates, and to appoint them to be carried into execution, and the heritors are only entitled to state objections, not



to insist on choosing a plan for themselves. *Campbell, &c.*, 19th May 1815.

10. Presbyteries have no jurisdiction relative to a claim for a manse, except in so far as it is founded on the act 1663. *Magistrates of Ayr v. Auld*, 16th June 1825.

11. 43d Geo. III, c. 54. Although the jurisdiction of presbyteries in regard to schoolmasters is declared final, without appeal to, or review by any court, civil or ecclesiastical, it is nevertheless competent for the Court of Session to review proceedings that are inconsistent with the provisions of the statute. *Brown v. Heritors of Kilberry*, 15th Nov. 1825.

12. 43d Geo. III, c. 54. Although the jurisdiction of presbyteries in regard to schoolmasters is declared final, without appeal to, or review by, any court, civil or ecclesiastical, it is nevertheless competent for the Court of Session to reduce and set aside their sentence, where the proceedings have not been in conformity with the directions of the statute.

(2.) Where a person has acted for a length of time as a parish schoolmaster, and the presbytery have proceeded against him, under authority of the statute in that capacity, they cannot afterwards object to his title to pursue a reduction of their decree, in that character, on the ground that he has never been regularly inducted into the office, nor been examined and taken the oaths according to the provisions of the statute. *Ross v. Findlator, &c.*, 2d March 1826. *Vide SCHOOLS and SCHOOLMASTER.*

## KIRK.

### I.—WHO LIABLE IN THE EXPENSE OF BUILDING AND UPHOLDING CHURCHES.

1. A new parish kirk cannot be erected but by act of parliament. *Douglas v. The Parishioners of Haymouth*, 14th Feb. 1627. Sup. I, 232.

2. The Lords found, that where there is a kirk and a

quire, the parson or his tacksman ought to uphold the quire, and the parish the kirk; but where there is no quire, that the parson ought to uphold the third part of the kirk. *Schaw v. Countess of Winton*, 25th June 1623, Dict. 7913. The like, *Kirk of Selkirk v. Stewart*, 29th Nov. 1628, Dict. 7913.

3. A duty being laid on by the generality of the parishioners for repairing of a kirk, letters of horning were sustained thereupon, even against such heritors as had not been present at laying on of the stent, so that the taxation was imposed on them without their consent; but this was in respect of the act 54 Parl. 1572. *Kirk-session of Lauder v. Goodman of Gallashiel*, 24th Nov. 1630, Dict. 7913.

4. The church of a royal burgh, having also a country parish, the Lords found, that the tithes of that country parish were liable for repairing the quire of the church, and found that the heritors of the acres and country, or landward parish, were liable proportionally for reparation of the body of the church, unless they would quit their seats. *Williamson v. Parishioners of Kirkaldy*, 25th March 1685, Dict. 7914, and 5121.

5. The money arising from the ringing of the bells, and burying within the church, does not properly belong to the poor; and therefore is to be burdened with the reparation of the church. *Ministers and Kirk-session of Montrose v. Magistrates of the Town and Heritors of the Parish*, 2d July 1730, Dict. 7915.

6. Though by the act of council 1563 (as the terms of it are, as told us by our lawyers, confirmed by act of parliament) the parson was liable to repair the quire, and if there is no quire, the third part of the kirk; yet, in the process betwixt the town and heritors of Selkirk, and the Duke of Roxburgh, the duke, though titular of the tithes, there being no chancel or quire, was found liable only for his due proportion of the kirk, according to his valuation. *Town and Heritors of Selkirk v. the Duke of Roxburgh*, 9th Feb. 1738, Dict. 7915. Elch. h. i. 1.

7. The parish of Kinghorn being partly landward, and partly made up by the burgh of that name; a question

arose about the division of the church area and seats, and as to the proportion payable by the town and country heritors, of the expense of repairing the church. The town heritors insisted that their share of these burdens should be proportioned, like that of the country heritors, according to their valued rents. The country heritors urged, that the former had been in the immemorial use of paying one half of these burdens, and that they had no reason to complain, as they possessed much more than a half of the church area; which, in case the court should alter the proportion of the repairs, they insisted should at least be divided in the same proportion. The Lords chiefly regarded the immemorial possession; and found that the town was entitled to retain the portion of the area formerly possessed, upon payment of the usual proportion of one half of the repairs and burdens; which they established to be the rule in all time coming. *General Sinclair v. Magistrates of Kinghorn*, 6th Feb. 1761, Dict. 7918.

8. Lands annexed *quoad sacra* must bear their proportion of upholding the fabric of the church to which they are annexed, free from all other parochial burdens there; and continue liable in every parochial burden, save that of upholding the fabric of the church, in the parish from which they are disjoined. *Drummond v. Heritors of Monsie, &c.* 2d Feb. 1773, Dict. 7920.

9. Found that a parochial church, partly landward and partly burgage, ought to be repaired and rebuilt at the expense of the heritors and burgh. *Duke of Argyle, &c. v. Rowat*, 1st Feb. 1775, Dict. 7921.

10. In a question with regard to the building of a church in a parish which was partly composed of a burgh of regality, partly of a small village contiguous to the former, and partly of a landward district, the Lords found that the valued rent could not be the rule of apportioning the whole expense; but that so much of it as was necessary for accommodating the inhabitants of the landward district, should be defrayed according to that rule; while the remainder was to be defrayed by the feuars and proprietors of houses, according to the real rents of their

properties; and that the area of the church, after it was built, was to be divided in the same manner. *The Feuars of Crieff v. the Heritors of Crieff*, 20th Nov. 1781, Dict. 7924. Hailes, 892.

11. The Lords found that a parish church ought to be of dimensions sufficient to contain two-thirds of the examinable persons in the parish, not under twelve years of age. *Minister of Tingwall v. the Heritors*, 22d June 1787, Dict. 7928.

12. The proprietor of a coal-mine is not liable for any part of the expense of building a new parish church. *Bell v. the Earl of Wemyss*, 16th Feb. 1805, Dict., App. h. t. 3.

13. Building and repairing churches is under the jurisdiction of the presbytery of the bounds. *Minister of Dunning v. the Heritors*, 10th June 1807, Dict., App. h. t. 4.

14. Where an existing kirk is substantial, or capable of being repaired, the heritors cannot be forced to pull it down and build a new one, on the ground that it is not sufficient to accommodate two-thirds of the number of examinable persons in the parish. *Cunninghame, &c. v. Deans, &c.*, 12th Dec. 1811.

15. Liferenters are not liable to defray any part of the expense of building or repairing churches, mansees, school-houses, or schoolmasters' dwelling-houses. *Lady Anstruther v. Anstruther's Tutors*, 14th May 1823.

16. The superior is not liable in any part of the expense of building or repairing a church. Fac. Coll., Jan. 23, 1773; *Bruce Carstairs*. Ibid., Feb. 20, 1794; *Murray*.

17. When a parish consists partly of a town, and partly of a landward district, it has been decided by a judgment of the House of Lords, that the expense of upholding or building a church "is a parochial duty, and that it ought to be defrayed by all the owners of lands and houses, in proportion to their *real rents*." By this decision, the principle formerly recognized in the cases of *Crieff* (Fac. Coll., Nov. 20, 1781), and of *Peterhead* (Jan. 15, and Feb. 10, 1802), was reversed, and the law fixed upon this

point. *Feuars of Peterhead v. Landward Heritors*, June 24, 1802.

## II.—DIVISION OF THE AREA OF THE CHURCH.

1. The disposal of the area of the church is in the heritors, and not in the minister and kirk-session. *Heritors of the parish of Falkland v. Minister and Kirk-session*, 20th Feb. 1739, Dict. 7916.

2. Area of a church, how to be divided between a borough and a landward parish. *2do*, In what proportion are they to pay the expenses of repairing the church and manse. *Heritors of Kinghorn v. Magistrates*, 6th Feb. 1761, Dict. 7918.

3. A patron who has a *dominium utile* within the parish, however trifling, is entitled to the choice of his seat, though the heritors paid for the building of the church according to their valuations. *Lord Torphichen v. Gilson*, 13th Feb. 1765, Dict. 9936.

4. The parish church of Campbelton, in which the Gaelic language only was used, being found insufficient for containing all the parishioners, it became necessary to have another place of worship, and a minister who could preach in English. The expense of erecting this new building, which was called the Lowland Church, was defrayed by voluntary contribution; and the seats proportioned among such of the inhabitants as did not understand Gaelic. This church becoming ruinous, a visitation was appointed by the presbytery in common form, who were proceeding to oblige the heritors of the parish to repair or rebuild it; but as the heritors had not the benefit of the area (more than two-thirds of which was possessed by certain seat-holders, who claimed the same as their property), they brought an action, concluding to have it found and declared that the pursuers were entitled to have the area of this church divided, and shares allotted to them respectively; or otherwise that they should be free in all time coming of the burden of repairing, &c. In defence it was stated for the seat-holders, that this church having been built by private contribution,

never was meant for a parish church ; and therefore the pursuers could have no right to demand a division of the area, since they had neither built nor contributed to the building. But the Court found, that the Lowland Church of Campbelton is a parochial church, and is subject to division, conform to the rules of law ; and thereafter found, that as the defenders are not heritors, they are not entitled to any part of the area, except such share of that part falling to the burgh as may effieir to them, in proportion with the other inhabitants. *Duke of Argyle, &c. v. Rowat, &c.*, 1st Feb. 1775, Dict. 7921.

5. Whether there can be exclusive property in a seat in a church. *St. Clair v. Alexander*, 21st Nov. 1776, Dict. App. *h. t.* 1. Sup. V, 557. Hailes, 719.

6. The church of Eccles being rebuilt, the sheriff, in a process of division of the area, found, that a former division was an improper one, being against the consent of some of the principal heritors, and that the same was not binding ; and found, that each heritor's share must be set apart by itself, and that the heritors have choice of place, according to the valuation of their several estates ; and appointed a sworn surveyor and measurer to proportion the said area accordingly. The Lords, in an advocacy, sustained that judgment, with this variation, that each heritor, in proportion to his valued rent, must have a seat in the church for himself and family, distinct from the share of the area to be allotted to his tenants ; but that in dividing the whole area of the church, the area of each heritor's seat must be taken *in computo* in making up his share corresponding to his valued rent. *Earl of Marchmont, &c. v. Earl of Home*, 17th Dec. 1776, Dict. 7924, and *h. t.* 2. Hailes, 734. Sup. V, 558.

7. A church having been possessed for about a century, according to a particular division, but of which no other evidence could be produced ; in an action for a new division of the area, upon the allegation, that it never had been legally divided, the Court were of opinion, that from the long possession there was sufficient presumptive evidence of a regular and proper division,

and therefore dismissed the action. *Cathcart v. Weir*, 24th Nov. 1785, Dict. 7928.

8. The area of a new church in a parish where there is both a royal burgh and a landward district, falls to be divided between them in proportion to their population. *Ure, &c. v. Carnegie, &c.*, 6th May 1793, Dict. 7929.

9. Certain tenants of the Earl of Wemyss presented a petition to the sheriff, praying, that the area in the church of Inveresk, belonging to the Earl, might be divided among his tenants according to the rents paid by each; and the question being brought before the Court by advocacy, the Lords remitted to the sheriff to find, that the Earl of Wemyss's tenants in the parish of Inveresk are entitled to be accommodated with suitable seats in their parish church, and to make a fair and equitable division of his lordship's area in that church accordingly. *Skirving and Young v. Vernor*, 21st June 1796, Dict. 7930.

10. In the view of a new church being built in a landward parish, the kirk-session, as trustees and managers for the heritors, agreed to give to certain corporations, who had a right to seats in the old church, but without lands or legal residence in the parish, the same accommodation as formerly; and this agreement having been recognized by a judgment of the Court, in a question with certain of the heritors, it was found to be binding on all. *Gavin v. Trinity House*, 2d June 1825.

#### IV.—NOMINATION OF THE BEADLE, PRECENTOR, SESSION-CLERK, &c., EMOLUMENTS OF BAPTISMS, &c.

1. It was questioned between the magistrates of Elgin and the minister and kirk-session, where lay the right of nomination to the offices of beadle, session-clerk, and precentor? Before the Reformation, the beadle was a church-officer; because the care of the fabric, and every thing belonging to it, was then solely in the hands of churchmen. The case is now different, where all churchmen are now stipendiaries only. It was therefore found,

that the nomination of the beadle was not in the minister and his session, but in the magistrates. The kirk-session has a power of naming its own clerk; and they, with the minister, have the right of nominating a precentor: but in this particular case, where a grant of certain emoluments was made by the crown to the town of Elgin, for maintaining a music-master, who should be obliged to precent in the church, the right of nomination of the precentor was found to be thereby conferred upon the town.

2. It was remitted to an ordinary to hear parties, whether the emoluments of baptisms and marriages belong to the session-clerk or precentor; but it appears that the precentor thought it not worth while to insist for a decision, as judging the session-clerk to have so much a better title. *Magistrates of Elgin v. the Minister and Kirk-session*, 4th Dec. 1740, Dict. 7916. Elch., *Kirk-session*, *Vide Sup. V*, 599.

#### V.—MISCELLANEOUS CASES.

1. Proceedings against an episcopal minister before the toleration act, 10th Anne, c. 7, who had been imprisoned for exercising his function, reversed on appeal. *Greenshields v. Provost &c. of Edinburgh*, 1st March 1710–11. Sup. IV, 774. Robertson, 12.

2. The magistrates of Elgin being pannelled and convicted in the court of justiciary, of an intrusion into the parish church, and a fine imposed upon them, the judgment was reversed in the House of Lords. *Innes v. Ministers of the church of Elgin*, 3d July 1713, Robertson, 69.

3. Seats in churches which, by the disposition from the kirk-treasurer, are devised to a person and his heirs, and others his nearest representatives whatsoever, do not follow the common rules of heritage, but divide among the nearest relations in the same degree. *Watson v. Watson*, 9th July 1760, Dict. 7917 and 5431.

4. A seat in church is carried by disposition of lands as part and pertinent. *Duff v. Brodie*, 29th June 1769, Dict. 9644. Hailes, 297.



## KIRK PATRIMONY.

## I.—POWER OF ADMINISTRATION.

1. *Of the granting of Tacks.*

1. Found, that no tack can be set of a religious house, or any pertinent thereof within the precincts. *Abbot of Crossraguel v. Hamilton*, 12th March 1504, Dict. 7933.

2. A tack being set by an ecclesiastical person for all the days of the tacksmen's life, the same was found null, unless it had been duly confirmed. *Bishop of Aberdeen v. Forbes*, 14th Dec. 1501, Dict. 7933, *Abbot of Crossraguel v. Hamilton*, 12th March 1504, Dict. 7933.

3. The Lords decerned that of the practice of Scotland, all prelates of the realm might set five years' tacks, and that their successors ought to acknowledge them. *Bishop of Aberdeen v. Executors of the late Bishop*, 18th Dec. 1541, Dict. 7934.

4. A five years' tack was sustained, though set by an ecclesiastical dignitary without consent of the chapter or convent. *Bishop of Aberdeen v. Executors of umquhill Gavēn Bishop of Aberdeen*, 18th Dec. 1541, Dict. 7934. *Parson of Muckarsie v. William Abercrombie*, 26th March 1558, Dict. 7935.

5. But, with consent of the chapter or convent, the Lords found that they may set a nineteen years' tack, which will bind their successors. *Provost of the Queen's College v. Lord Balcleugh*, 25th May 1542, Dict. 7934.

6. Found, That when tacks are set by kirkmen for no longer than five years, their successors in office are bound to maintain the tenants in the possession without any new grassum, &c. *Bishop of Aberdeen v. The Executors of his Predecessor*, 18th Dec. 1541, Dict. 7934. *Note.*—Here it was contended, that it ought only to be for three years; but the Lords found it five. This was again

found. *Parson of Muckarsie v. Abercrombie*, 26th March 1558, Dict. 7935.

7. But it was again found only to be three years in case of a vicar. *Vicar of Gaston v. Valentine*, Feb. 1584, Dict. 7939. And here the tack was from three years to three years, and the tacksman had bruiked six, and was entered into the seventh year. The like,—*Ker v. Ker*, 17th Dec. 1569, Dict. 7937. *Vicar of Bowton v. Cockburn*, 1st March 1566, Dict. 7936.

8. Found that the mansion-house of an abbey, with the inclosures thereof, and the orchards, though without the wall, cannot be set in feu. *The King and the Abbot of Balmarino v. Lord Kinneear*, 4th Feb. 1569, Dict. 7938.

9. A tack set by a kirkman, from three years to three years, till nineteen years should run out, was found only to subsist for three years after the setter's decease. — *v. —*, 17th Nov. 1579, Dict. 7938.

10. Tacks to endure during the setter's incumbency only, may be granted in what terms he has a mind; because none are prejudged thereby save the granter himself. *Vicar of Bowton v. Cockburn*, ult. Feb. 1566, Dict. 7935. The like,—*Parishioners of Cumnock v. Lord Carprinton*, March 1583, Dict. 7938.

11. A parson deprived by authority of the kirk, was found not entitled to let a lease, although at the time the kirk had no such authority. *Hunter v. Crichton*, 22d Feb. 1610, Dict. 7940.

12. He who obtains a tack of vicarage teinds, not apprehending possession by virtue thereof before the demission of the benefice by the setter, if he who is thereafter provided, obtain peaceable possession, the tacksman will not be able to controvert with him. *Ramsay v. Maxwell*, 23d Jan. 1611, Dict. 7940.

13. A tack of teinds whose entry is appointed to be at the decease of the person setter thereof, is null, as conferred *in tempus indebitum*. *Home v. Home*, 9th Jan. 1612, Dict. 7940. The like,—*Sleuman v. Town of Edinburgh*, 11th June 1568, Dict. 7936.

14. In a reduction of a tack, upon this ground, that a

tack wanted the common seal of the convent, the Lords did not choose to decide. *Hewet v. Earl of Cassilis*, June 1614, Dict. 7941.

15. Found, that a provostry is not a prelacy, and therefore that a tack was null, because set without consent of the patron, conform to the act 203, parl. 1594. *Lord Drumlanrick, v. Cowhill*, 12th July 1616, Dict. 7941.

16. The chapter of a convent of a collegiate church, having consisted of eight persons besides the provost; it was found, that the subscriptions of the major part were necessary to a tack set by them; and that the subscription of the provost, with three more, was not sufficient. *Maxwell v. Lord Drumlanrick*, 14th March 1622, and 24th June 1623, Dict. 7941. Found also in the above case, that neither the consent of pupils, though *in confinio* nor absents forth of the country, was requisite to such tacks, though they bruiked their parts of the patrimony. It was likewise found, that if all the chapter were minors, none of their consents were requisite, 14th March 1622, *inter eosdem*.

17. Found that a tack set by an inferior beneficed person, for longer space than his life, and five years thereafter, and recorded in terms of act 4th, Parl. 1617, was not null, in respect that the act prohibits not tacks to be set for any longer space; which if it did simply, without adjecting a penalty, it might then infer a nullity; but seeing the act adjects a special punishment against the setter, the Lords found, that the punishment may be incurred by the contravener, but that the tack will not fall as null. *Hope v. Parson of Craighall*, 9th Nov. 1624, Dict. 7943.

18. Tack reduced, as being granted without consent of the chapter. *Cheyne v. Laird of Coulter*, 18th Feb. 1629. Sup. I, 170.

19. A college getting the deanery of a cathedral church mortified to them, the Lords found, nevertheless, that a tack set by the whole masters of the college was null, as wanting the consent of the chapter; because that although the deanery, and fruits thereof, were mortified to the college, yet the dignity was not thereby extinct; for, by the

mortification, the college came in place of the dean ; and as deeds done by him before the mortification required the consent of the rest of the chapter, so was it in the present case, they having come in his place. *College of Aberdeen v. Menzies*, 26th March 1629, Dict. 7945. The like, *College of Aberdeen v. Lord Fraser*, 25th March 1637, Dict. 7948.

20. The Lords reduced a tack of teind-fish, at the instance of a bishop, upon this ground, that the tack was set by his immediate predecessor ; notwithstanding there was another not yet outrun, set by a former bishop. *Bishop of Isles v. Schaw*, 26th July 1631, Dict. 7946.

### KIRK-YARD.

1. The Lords found, that the grass of a kirk-yard cannot be assigned by the plat ; but that it pertains to the parish, and may be set by them, and the duty thereof applied to pious uses. *Lord Bass v. Young*, 25th July 1609, Dict. 8019.

2. Though burial places are *inter res religiosas*, yet with us, they are *in commercio* ; and ordinarily transmitted by dispositions, with charter and sasine following thereon, *Monteith v. Hope*, 8th Feb. 1695. Sup. IV, 261.

3. Found that the kirk-yard ought not to be used for pasturage, nor computed as part of the minister's grass. *Beaton v. Dallas*, 8th Feb. 1734. Elch. Glebe 1.

4. The Court of Session, as Commissioners of Teinds, have no power to fix a new church-yard for a parish, *Maitland, &c. v. May, &c.*, 30th July 1766. Hailes, 109.

5. Additional burying ground necessary for a parish, partly landward, and partly composed of the inhabitants of a populous burgh of barony, must be furnished by the heritors having ground proper for that purpose : and they are to be indemnified by the other heritors and by the community, in proportion to the examinable persons within the parish. *Magistrates of Greenock v. Shaw Stewart*, 4th July 1777, Dict. App. h. t. 1. Hailes, 758. Sup. V, 414. See Swinton's Appeals 11.

6. Found, that the minister was only entitled to cut the grass in the church-yard, but not to pasture his bestial thereon. *Hay v. Williamson*, 2d Dec. 1778, Sup. V, 415. See Dict. 5148.

7. The property of the church-yard, as of the church itself, belongs to the heritors, having property lands in the parish, as part and pertinent of their property lands, for the interment of those in their respective families, and other inhabitants upon their several properties; and those who neither are heritors, nor reside within the parish, have no right to be buried, or to bury those of their families who did not reside in the parish, in the church or church-yard, without consent of the heritors. *Cunningham v. Cunningham*, 5th Dec. 1778. Sup. V, 415.

8. Ministers are not entitled to pasture the kirk-yard, but are only entitled to cut the grass growing thereon. *Spence v. Sir James Hall and Darling*, 1st Dec. 1808.

9. A clergyman and one of his sons having been buried in a spot adjacent to, and in front of, the parish church, where the minister had his burial place; and the church having been transported to another part of the parish; and the area, with the burial-place, having been excambied and conveyed to one of the heritors, who included them in his pleasure grounds: Held (affirming the judgment of the Court of Session), that a son of the clergyman was entitled to insist on having the graves protected by a fence; and that he and the other near relations were entitled to visit the graves at all proper times. *E. of Mansfield v. Wright*, 17th May 1824, Shaw II, 104.

## MANSE.

### I.—OF THE DESIGNATION OF MANSES.

#### *Form of Designation.*

1. A manse being valued without warrant from the bishop, the valuation was found null. *M'Joris and Heritors of Carlaverock*, 12th Dec. 1671, Dict. 8498.

2. In a suspension of a presbytery's decret for build-

ing a manse, the Lords found as follows, viz. 1st, That by act 21st Parliament 1663, the minister and tradesmen may proceed, though the heritors be absent or withdraw, being cited; the minister having no other compulsitor to bring them, save an intimation from the pulpit the Lord's day preceding; but that the tradesmen there being parishioners will not supply that clause of the act, requiring two or three of the most discreet men in the parish to be also present, to assist and judge of the tradesmen's schemes and estimates, who must be over and above the tradesmen themselves, who would be very unfit to restrict and limit their own work; 2d, They found that the ministers, by our law, are empowered to proceed to liquidate the value and price of the manse, not exceeding £1000 Scots; and likewise to choose the most convenient place for its situation, near the church, with a suitable glebe, and grass or foggage for his horse and cows, and also to cast and proportion the sum liquidated upon the heritors, and to name a factor or collector for uplifting and debursing it; 3d, They found that the rule of the cast must be not the real rent (which would put ministers to a long probation, and occasion many great debates), but the valued rent extracted out of the cess-books; 4th, They found that though some of the heritors were dead, and others had the privilege as members of Parliament, yet this would not sist process as to others. *Steel v. his Parishioners*, 31st Jan. 1712, Dict. 8498, and 5131.

3. A manse may be declared sufficient in terms of the act 1663, though built voluntarily by the heritors, without any interference of the presbytery. *Heritors of Cairney v. Presbytery of Strathbogie*, Feb. 1786, Dict. 8514.

## II.—FROM WHAT LANDS MANSES MAY BE DESIGNED.

1. Found that lands dyked, enclosed, and planted about with trees, adjacent to a feuar's house, may not be designed for a manse. *Marshall v. Carnegie*, 20th June 1605, Dict. 8495.

2. The Lords found that a minister cannot get a

manse designed to him within the precincts of a monastery or bishop's palace, if there be another parson's or vicar's manse within the parish. *Balfour v. Archbishop of St. Andrews*, 20th June 1605, Dict. 8495. *Lord Pittenweem v. Durie*, 22d June 1612, Dict. 8497.

3. Found that although the most ewest kirk-lands, where there was no glebe before, might be designed; yet that the houses upon that kirkland could not be claimed by the minister, if these houses never belonged to any incumbent before, because there was no foundation in any statute for such a demand; and therefore that the minister had nothing left but either to deal with the parish to build him a manse, or pursue them for the same, or build it himself, the expenses whereof would be refunded to his executors by the next entrant, conform to the act of Parliament. *Minister of Inverkeithing v. Ker*, 11th Feb. 1631, Dict. 8497 and 5124.

4. The whole vicar's manse should pertain and be designed to the minister, whether let in feu or not. *Monteith v. Ker*, 20th Jan. 1632, Dict. 8497.

### III.—WHAT MINISTERS ARE ENTITLED TO A MANSE.

1. Ministers presented to parsonage or vicarage, albeit they have right to the whole benefice, may seek reparation of their manses from the heritors. *Gibson v. Hepburn, &c.* 18th Dec. 1673. Sup. I, 699.

2. The Lords thought that the manses of deans and other dignified ministers were not included in the act 1663; but the minister of Old Macher or Old Aberdeen, having now become a stipendiary minister, found his heritors bound to repair his manse; but found that they might either repair the old manse, or build a new one, and take the materials of the old to themselves, the new manse to be worth £1000 Scots. *King's College of Aberdeen v. the Heritors of Old Macher*, 29th June 1748. Elch. h. t. 2.

3. The Lords found that a minister in a royal burgh was not entitled to a manse by designation of the presbytery upon the act 1663; but reserved to him to apply

for a dwelling-house in any other form he should be advised. *Thomson v. Heritors of Dunfermline*, 30th June 1780, Dict. 8504. Elch. h. t. 4.

4. Minister of a royal burgh, with a landward parish, not entitled to designation of a manse upon the statute 1663. *Troop v. Fife, &c.*, 20th Feb. 1769, Dict. 8508. Hailes, 283.

5. A minister of a parish, partly landward and partly consisting of a royal burgh, is not entitled to demand the building of a manse, but may claim a sum for house-rent. *Mutter v. Earl of Selkirk*, 16th June 1784, Dict. 8513. Hailes, 946.

6. The minister of a royal burgh, with a landward parish, having been once in possession of a manse, but having accepted a sum of money for manse rent, may insist upon a manse being provided for him. *Minister of Dunfermline v. Heritors*, 19th Nov. 1805, Dict. App. h. t. 1. Affirmed on appeal. Fac. Coll., XVI, 751.

7. The second minister of a royal burgh is not entitled to have a manse and glebe designed to him under the act 1663, c. 21, although his stipend is paid from the teinds of the parish. *Adamson v. Paston*, 14th Feb. 1816.

8. A presbytery has no jurisdiction as to a claim to a manse, independent of the act 1663, nor consequently can the Court of Session, in a suspension of the presbytery's decree, proceed beyond that statute. *Auld v. Magistrates of Ayr*, 16th June 1825. See Wilson and Shaw's appeals, 13th June 1827.

9. Found (reversing the judgment of the Court of Session), that the minister of a royal burgh, with a landward parish annexed, is entitled to a manse under the statute 1663, c. 21. *Auld v. Magistrates of Ayr*, 13th June 1827, Wilson and Shaw, 600.

### III.—OF THE EXPENSE OF BUILDING AND REPAIRING MANSES, AND KEEPING THEM IN REPAIR.

1. Titulars or tacksmen of teinds not burthened with reparation of manses. *Swinton's Relict v. Lord of Wedderburn*, 16th Jan. 1663, Dict. 8499.



2. Parishioners having built a manse upon the glebe to their minister where there was no manse before, and having valued it according to the 21st act of Parliament 1663, and stented it upon the parishioners and others, they did petition the Lords for letters of horning conform to the stent-roll, in respect that act of Parliament bears no warrant for horning. The Lords ordained letters of horning to be passed. *Parishioners of Port v. Supplicants*, 4th Dec. 1666, Dict. 8499.

3. The heritors are bound to build the manse, and liferenters are free of any burden upon that account. *Minister of Morham v. Lord Binsten*, 14th Nov. 1679, Dict. 8499.

4. The Lords found a burgh liable for reparation of the minister's manse, although it was a burgh royal; because it had a manse and glebe and landward parish, and so fell not under the act 21st Parl. 1663. *Williamson v. Parishioners*, 25th March 1685, Dict. 8500 and 5121.

5. In a pursuit at the instance of the first minister of Kirkaldy against the heritors of the parish of Abbotshall, that had been disjoined from Kirkaldy, for a proportion of expense of repairing his manse, upon this ground, that the pursuer's stipend is wholly paid out of the teinds of Abbotshall, of which the defenders are titulars, and upon them also must the burden of the manse lie; the defenders were found not liable for reparation of the manse, having the manse of their own parish to support. *Minister of Kirkaldy v. his Heritors*, 25th March 1685, Dict. 8500 and 5121.

6. The repairing of the manse during the vacancy, is a real burden affecting all vacant stipends by the act 21st Parliament 1663, and the manse must be repaired out of the same, the parishioners proving that it was a sufficient manse at the removal of the last incumbent. *Lord William Douglas v. Heritors of the Church of Manner*, 6th Dec. 1695, Dict. 8501.

7. In a question upon the act 21st Parliament 1663, it was found, that vacant stipends might be applied by

the heritors to the repairing of the manse, but not to rebuilding of the same, where it is totally ruinous. *Moncrief v. Couper*, 16th Dec. 1729, Dict. 8502.

8. The thatch roof of a manse having, during a vacancy, suffered considerably by winds, the heritors agreed to give it a slate roof. The heritors craving retention of a year's vacant stipend to defray the expense of this reparation upon the act 1663, it was found that they could not crave retention, in so far as the manse was meliorated, but only for needful repairs of deteriorations happening during the vacancy; and because the limits betwixt these two was difficult to be made out by a proof, the Lords at a slump decerned for a third part of the year's vacant stipend. *King's College of Aberdeen v. Heritors of the parish of Newmachar*, 27th Feb. 1734, Dict. 8503.

9. The vacant stipend cannot be applied in rebuilding the manse. *Wodrow v. Cunningham*, 26th Feb. 1740, Dict. 8503.

10. Lands united to a parish *quoad sacra* are not liable to repair the manse of that parish to which they are so united. *Park v. Maxwell*, 13th July 1748, Dict. 8503. Elch. h. t. 3.

11. Found not lawful to assess tenants for the expense of leading materials to be employed in building a manse, it being held that the burden of building the manse lay entirely upon the heritors, which term does not include tenants. *Millar v. Craig*, 18th Dec. 1769, Hailes, 329.

12. The superior not liable to be assessed for the expense of building the manse. *Dundas v. Nicolson*, 2d July 1778, Dict. 8511, Hailes, 802.

13. The repair of a manse is a burden on the heritors of the parish alone, from which persons merely owners or holders of seats in the parish church are exempt. *Farie, &c. v. Leitch, &c.* 2d Feb. 1813.

14. Liferenters are not liable to defray any part of the expense of building or repairing churches, manses, school-houses, or schoolmasters' dwelling-houses. *Lady Anstruther v. Anstruther's Tutors*, 14th May 1823.

## V.—SUM ALLOWED FOR ERECTING A NEW MANSE.

1. Stat. 1663, c. 21, Held (contrary to the judgment of the Court of Session) that where a manse has been built and has become ruinous, the first clause of the statute 1663, c. 21, relative to the building of manses, and limiting the expense to £1000 Scots, does not apply; but that the second clause as to repairs, and which is unlimited, is applicable; and, therefore, the judgment of the Court of Session, awarding £1000 sterling, was affirmed. *Dingwall v. Gardener*, 2d March 1821, Shaw's Appeals, I, 10. Fac. Coll. XX, 674.

## VI.—DECLARING A MANSE FREE.

1. Action sustained at the instance of the parishioners against the minister, upon the acts 1612, c. 8, and 1663, c. 21, anent the keeping the manse in repair. *M'Kinlay v. his Parishioners*, 23d Feb. 1671, Sup. II, 528.

2. The effect of declaring a manse free. *Maul v. The Children of Charters*, 1734. Elch. h. t. l. Vide the Printed Papers, and the Notes.

3. It appeared to be the sense of the Court, that the representatives of a minister, pursued by his successor in office, were not bound to put the manse in a habitable condition, which had been left ruinous by the last incumbent. But it was in this case an influencing specialty, that the succeeding minister, although he was allowed a proof of the condition in which the manse was at the entry of his predecessor, had brought no proof. *Macaulay v. Auchinleck and Kyd*, 3d Dec. 1751, Dict. 8506. Elch. Stipend, 7.

4. Manse of Strathaven repaired in 1786, declared sufficient in 1790. Further repairs demanded and resisted on the grounds that the manse had been declared free in 1790. Decided by the Court of Session, that the manse had not been declared free in terms of law. *Duke of Hamilton, &c. v. Rev. J. Scott, D. D.*, 13th July 1813, Dow, I, 393. Affirmed on appeal.

## VII.—POWERS OF THE PRESBYTERY.

1. Power of the presbytery in visitation of manses. *Potter v. Heritors of Kippen*, 31st Jan. 1708, Sup. IV, 691.

2. Powers of presbyteries in regard to the repair of manses. *Greenlao v. his Heritors*, 31st July 1778, Sup. V, 513.

3. Presbyteries, though they may authorize the repairing or rebuilding of manses, have no power to enlarge them. *Robertson v. Earl of Rosebery*, 28th July 1788, Dict. 8515.

4. What circumstances in the state or situation of the old manse will authorize the presbytery to ordain a new one to be built. *Hamilton v. Clason*, 9th March 1826.

5. It is competent to a presbytery to order additions to be built to a manse which does not afford sufficient accommodation to the minister. *Edmonstone, &c. v. Hamilton*, 10th July 1827.

## VIII.—MISCELLANEOUS CASES.

1. Minister, deprived for non-conformity, being charged by the new incumbent to remove from the manse; found he was not bound to remove till he was paid the expense of repairs made by him. *Kier v. Lamb*, 24th June 1630, Sup. I, 69.

2. Found that the relict of the deceased minister might convene the entrant, or the heritors, for the price of the manse, either built or repaired; notwithstanding the act of parliament 1661 be expressed that the heritors ought to be bound and liable for that. *Bower v. Graham*, 24th Jan. 1668, Sup. II, 435.

3. The manse being ruinous at a minister's admission, found,

(1.) That the presbytery had a right to make a visitation, and to fix the sum which the minister should be allowed by the heritors until he should be provided with a manse.

(2.) That he should have £20 yearly as the value of grass for two cows and a horse, until he get as much grass allocated to him, in terms of the statute.

(3.) In what form the heritors may be charged to perform these obligations. *Potter v. Heritors of Kippen*, 31st Jan. 1708, Sup. IV, 691.

4. As to bygones since the minister's admission, and till his manse be built; found, that he had a good claim for as much as he had paid of house-rent, against the heritors. *Steel v. Parishioners of Lochmaben*, 29th Jan. 1712, Dict. 8502, and 5131.

5. The Lords found that a minister's proving his being in use to receive from the parish a sum of money for house-rent in lieu of his manse for more than thirteen years, did subject the parish in payment of bygones, and in time coming. *Fergusson v. Town of Aberbrothick*, 22d Jan. 1715, Dict. 8502.

## PATRONAGE.

1. A patron of a parish, on the building of a new church, was found entitled to his choice of a seat of the same dimensions as that in the old one, and that although his interest in the parish was very trifling compared to that of the other heritors who contributed according to their valuations. *Torphichen v. Gillan*, 13th Feb. 1765, Dict. 9936.

2. Right of presentation may be exercised by a commissioner. *Tait against Keith*, 22d Jan. 1778, Dict. 9938.

3. One of the patrons in a united parish may present on every vacancy if no presentation be offered by the other patron. *Grant v. Duke of Gordon*, 7th Feb. 1788, Dict. 9945.

4. A presbytery refusing a presentation duly tendered to them in favour of a qualified minister, against which presentation or presentee there lies no legal objection, and admitting another person to be minister, the patron has right to retain the stipend as in the case of a vacancy.

*Moncrief v. Maxton*, 15th Feb. 1735, Dict. 9909. Elch. h. t. 1.

5. The patron of a parish having presented a minister, the kirk-session and heritors of the parish objected to his title to present, which was not very clear, and proceeded as if there had been a *jus devolutum* to moderate a call in favour of another minister. The synod of the bounds approved of the call, and the patron having appealed to the General Assembly, the new election was there likewise affirmed. On this the patron brought a declarator of his right before the Court of Session; and having prevailed in it, he pursued the heritors for bygone stipends. Pleaded for the minister and the heritors, that they were not obliged to keep the church vacant till the pursuer made out his right to the patronage, and the settlement was approved by the General Assembly. The Lords preferred the patron. *Cochrane v. Stodart*, 26th June 1751, Dict. 9951. Elch. h. t. 4.

6. The right to the patronage of Lanark was disputed between the Crown and Lockhart of Lee, who, on a vacancy, both gave presentations. The presbytery settled the minister named by Lockhart. But the Crown having been found, in a competition in the civil court, to have the right of patronage, it was found by the House of Lords (reversing, on this point, the judgment of the Court of Session) that the Crown was entitled to the whole stipend due since the vacancy. *Heritors and Minister of Lanark v. The Crown*, May 1753, Elch. h. t. 6. Dict. 9955.

7. A liferentrix having, by her contract of marriage, a right to a patronage, was for several years not infeft, during which time the fiar presented two ministers, but having presented a third after the liferentrix had obtained herself infeft, she gave a presentation to another, and brought a declarator of her right, in which the Lords decreed against her. But the judgment on appeal was reversed. The minister whom the fiar had presented having charged her for payment of the stipend, she suspended, on the ground of the established law and practice authorizing the patron to retain the stipends as vacant in case

of a refusal to settle his presentee. Urged for the other presentee, that being presented by the patron last in possession, and settled accordingly by the presbytery, he had a good right to the stipends. The Lords sustained the reasons of suspension. *Lady Dowager Forbes v. Mac-William*, Feb. 1762, Dict. 9931.

8. An heritor charged by a patron for vacant stipend, is not allowed to retain or suspend payment on the allegation that the patron has forfeited his right of administration by his misapplication of former vacant stipends; he must pay in the first place, the law having provided sufficient remedy against the patron's malversation. *Leith of Whitehaugh v. Earl Fife*, 12th July 1778. Dict. 9959.

## JUS DEVOLUTUM.

1. Found that the bishop, *jure devoluto*, might present to all which the lawful patron might have presented to. *Robertson v. Earl of Kinghorn*, 29th June 1670, Sup. II, 478.

2. The Lords sustained a presentation granted by a bishop, as having right to present, *jure devoluto*, in respect the patron did not present a qualified person within the six months, the time allowed by the act of parliament, in which the patron is to perfect all his presentations. *Jarden v. Thomson*, Nov. 1682, Dict. 9959.

3. The certification of the act 18th Parl. 1685, viz. That the patron shall lose his right of presentation for the next vice, if he fail to apply the vacant stipends to pious uses within the parish, was found to militate against the heir of the patron, though it was *delictum defuncti*, and the heir a minor; since the Lords considered it rather as a *jus accrescendi* to the moderator and presbytery, and the tinsel was declared against the defunct in his own lifetime. *Presbytery of Falkirk v. Earl Candler*, 8th Dec. 1696, Dict. 9961.

4. A declarator at a patron's instance that he had presented in due time, was sustained as competent. *Hay v. The Presbytery of Dunse*, 25th Feb. 1749, Dict. 9911. Sup. V, 768. Reversed on appeal.

5. A patron having given a presentation, the person presented signified his acceptance by letter; but when he came to be settled, he declared his renunciation of the presentation, as he had since his acceptance got another. The patron gave a new presentation, which happened to be without the six months from the vacancy being declared. The presbytery claimed the *jus devolutum*. The Lords found, That by the first accepted presentation the prescription was interrupted, and that the right of presentation had not fallen, *jure devoluto*, to the presbytery. *Procurator for the Church v. Earl of Dundonald*, 2d March 1762, Dict. 9961.

6. A minister of a parish having died on the 2d January, and the patron being abroad, a presentation was not offered to the moderator of the presbytery till the 2d July thereafter, which, being a Sunday, it was refused. It was received, however, the day following; but this being one day after the lapse of the six months, the presbytery brought an action to have it declared, that the right of presentation had fallen to them *jure devoluto*. The Court were of opinion on the fact, that there was no ground for the action. *Presbytery of Paisley v. Erskine*, 10th Aug. 1770, Dict. 9966. Hailes, 366.

7. Sir William Forbes of Craigievar being abroad while the church of Grange, of which he was patron, became vacant, his mother, Lady Forbes, as *factrix* and commissioner for her son, in virtue of a commission empowering her "to pursue and defend all actions, civil or criminal, whenever he or his estate might be concerned, till he should attain the age of twenty-one," granted a presentation before the expiry of the six months, but after the period of her son's majority, though, as being abroad, he had never recalled his commission, and she had continued to exercise every act of administration relative to his affairs. The lady, however, to obviate any objection to her title, procured from her son abroad a ratification of all she had done, and particularly of the grant of the patronage; but this did not arrive till after the expiry of the six months; and the presbytery in the meantime had declared the *jus devolutum*, rejected the presentation, and given another



in favour of a person of their own choosing. In a declarator brought by the presbytery for supporting their presentation, it was urged for the patron, that the *jus devolutum* cannot fall but through the patron's neglect to exercise his right during the legal term; but here there had been no neglect on his part, for his mother, whose administration, even if questionable, he had ratified, had within the legal term exercised his right. The Lords decerned in the declarator. *Presbytery of Strathbogie v. Forbes*, 2d Aug. 1776, Dict. 9972, and App. *h. t.* 2. Hailes, 712. Sup. V, 534.

8. The six months within which patrons are bound to present, run from the date of the vacancy, and not from the period it comes to their knowledge; but if a presentation is signed and dispatched within six months from the vacancy, it will exclude the *jus devolutum* of the presbytery, although from circumstances not imputable to the patron it should not be lodged with the moderator for a short time after their expiration. *Lord Dundas v. the Presbytery of Zetland*, 15th May 1795, Dict. 9972. Bell, 169.

#### JURISDICTION AND POWERS OF THE COURT OF SESSION IN MATTERS OF PATRONAGE.

1. The presbytery of Dunfermline having refused to receive the patron's presentee, and proceeded to appoint a day for the ordination of another, the patron presented a bill of advocacy of the settlement, which the Lords unanimously refused as incompetent. *Cochrane, petitioner*, 19th Nov. 1748, Dict. 9909. Elch. *h. t.* 3.

2. Where the patronage of a kirk is lodged in a collective body, which having differed in choice, splits into two parties, and each party gives a separate presentation, the Court of Session is competent to decide which shall be preferred. *Snodgrass, &c. v. Logan*, 16th June 1772, Dict. 9937.

3. The Court of Session found it competent to entertain a suspension relative to the validity of a presentation by the protestant commissioner of an alleged papist patron, as the question regarded the civil right of patron-

age; but found that the suspenders, designed in their pleadings elders, heritors, members of kirk-session, and parishioners, had no title to pursue. *Baillie v. Morrison*, 28th Feb. 1822, Fac. Coll. 577.

## POOR.

### OF THE PERSONS ENTITLED TO RELIEF.

1. Those persons are entitled to relief under the system of poor laws, who, though in ordinary seasons able to gain their livelihood, are reduced, during a dearth of provisions, to have recourse to a charitable supply; and an extraordinary assessment may for that purpose be levied. *Pollock v. Darling*, 17th Jan. 1804, Dict. 10,591.

2. When a lunatic has been indicted as a criminal, and confined by order of the Court of Justiciary, neither the parish of his settlement nor that in which the crime was committed are bound to aliment him during his confinement; but it is otherwise where he has been confined by an inferior magistrate, merely as a matter of precaution. *Commissioners of Supply of Wigtonshire v. Kirk-session, &c. of St. Quivox, &c.*, 21st Feb. 1823. *Scott v. Thomson*, 13th Nov. 1818.

3. Foreigners who have acquired a settlement, and are otherwise proper objects of relief, are entitled to it in the same way as natives. *Higgins v. Kirk-session, &c. of Glasgow*, 9th July 1824.

4. A pauper having been tried for certain acts of theft before the Court of Justiciary on the indictment of the crown, and a verdict having been returned finding him guilty, but that he was subject to fits of insanity at the time of committing the acts charged, on which verdict the court ordained him to be confined in the jail of the head burgh of the county where the crime was committed—Held, that the burden of maintaining him in jail, and afterwards in a lunatic asylum, till liberated on a remission, must be borne by the crown, and not by the county where the acts were perpetrated, nor the burgh of imprisonment, nor the parish of his settlement. *Commissioners of Supply of Wigtonshire v. Officers of State*, 5th June 1827.

## SCHOOL-HOUSE.

1. The majority of heritors, with consent of schoolmaster, may remove a school-house against the will of the minority. *Alexander Anderson v. Heritors and Schoolmaster of Bourtie*, 26th Nov. 1808.

## SCHOOLMASTER.

1. The Lords found, That by the act of parliament 1696, "ordaining a schoolmaster to be settled in every parish, with advice of the heritors and ministers thereof," the nomination and presentation of the schoolmaster belongs to the heritors and minister of the parish; but found, That if the heritors and minister refuse to present, after due intimation from the pulpit to that effect, the presbytery may then proceed and settle the schoolmaster. *Philip v. Heritors of Cruden*, 7th Feb. 1724, Dict. 13,122.

2. A schoolmaster in a burgh, not a burgess nor member of any corporation within the burgh, found entitled to sell and supply books to his own scholars, he not keeping open shop nor stall, nor selling to the public. *Guildry of Stirling v. Weir*, 27th Nov. 1823.\*

## SEAT IN CHURCH.

Two persons competing about a seat in the church, the first founding upon a disposition from the former possessor from whom he had bought some acres to which the seat pertained, but the disposition not mentioning any seat; and the other claiming it in virtue of a posterior disposition to the seat *per expressum*, and also to the mansion-house, upon this narrative, "That the prior disposition made no special mention of the seat;" the Lords found it comprehended under the first disposition, and that neither seats in churches nor burial places were

\* Vide other cases in notes on *Schools*, &c.

so *inter res sacras et religiosas* as to be *extra commercium*, but were conveyable by infestments and affectable by creditors. *Lithgow v. Wilkison*, 15th Jan. 1697. But in the like case preferred the latter to the right of the seat. *Inter eosdem*, 10th Nov. 1698, Dict. 9637.

## SIMONY.

1. The friends of a clergyman bound themselves by a letter to the heritors of a parish, whereof the crown was patron, to procure a gift of a year's vacant stipend, for reparation of the church and manse, provided that, by the interest of these heritors, their friend, the clergyman, should obtain the presentation. The presbytery, after the settlement, having heard of the transaction, pursued the minister as guilty of simony; but it appearing that he was not privy to the transaction made by his friends, he was acquitted. Afterwards, one of the heritors raised an action before the sheriff against those persons who signed the letters, for the expense of the repairs of the church. The Lords found, that the obligation was granted *ob turpem causam*, and that no action could lie upon it; found no expenses due to the pursuer, and fined the defender in £10 sterling to the poor. *Stephen v. Lyel, Gairdner, &c.* 20th Feb. 1759, Dict. 9578.

2. What deemed a simoniacal paction concerning a presentation to a vacant church. *Maxwell v. Earl of Galloway, &c.* 19th Jan. 1775, Dict. 9580, Hailes, 624. Sup. V, 601.

3. An obligation granted by a minister, not to bring a process of augmentation, in consideration of a sum of money received by him from the patron, is not binding. *Boyd v. Earl of Galloway*, 22d Jan. 1794, Dict. 9583.

## SLANDER.

1. Decree for a *palinodia* and recantation, and £100 of fine, against one for slandering a minister, by calling

him a thief. *Watson v. Miln*, 6th Jan. 1693. Sup. IV, 42.

2. A clergyman was found liable in damages for defamatory language used in the pulpit. *Scotlands v. Thomson*, 8th Aug. 1776, Dict. App. *Delinquency*, 2 and 3. Sup. V, 574, Hailes, 669 and 716, Dict. 13,934.

3. A man and his wife pursued their minister for having said in public companies that they had perjured themselves at a circuit court; and for having, on that account, refused them admittance to the sacrament. The Court allowed a proof; and on advising the same, found the minister liable to the pursuer in damages and expenses. *Macqueen v. Grant*, 21st Nov. 1783, Dict. 13,939 and 7466.

4. A minister found liable in damages for publishing a defamatory sermon, although the preaching of it was held to be justified by the conduct of the pursuers. *Snodgrass v. Wotherspoon*, Jan. 1776. Sup. V, 573.

## STIPEND.

### I.—NATURE OF STIPEND.

1. Found that a comprizer of a right to teinds, though never entering into possession, was liable to the minister for his stipend. *Minister of Crailing v. Ker*, 20th Dec. 1622, Dict. 14,783.

2. An intromitter with teinds will be found liable to pay the minister his modified stipend *in solidum*, for the whole quantity of his intromission, if it extend to so much as will pay the minister's stipend, notwithstanding that the rest of the parish intromitted also, and the suspender had no relief to get but from the granter of his tack, who was a dyvour. *Balfour v. Ker*, 20th June 1623, Dict. 14,784.

3. Stipend is, *debitum decimarum*, a burden upon the teind, and a minister may take himself to any of the heritors, in so far as he has teind, without prejudice of that heritor's relief against the other heritors. *Hutchison v. Earl Cassils*, 3d December 1664, Dict. 14,788; *Morton v.*

*Scott*, 6th July 1625, Dict. 14,784; *Keith v. Gray and Carmichael*, 21st March 1633, Dict. 14,786. Sup. I, 197.

4. A minister, conform to his right, pursuing the parish for their respective proportions of their teinds, and one of them suspending, upon this reason, that he had only taken the grass of a room from the heritor for summer pasturage of some goods, and had paid the duty before the charge given by the minister; the Lords found, in this case, that although the heritor had right to the teinds of the lands, both great and small, yet the minister might still seek payment of that proportion laid upon the teinds of the lands from the suspender, seeing the teinds, and intromitters therewith, were, by decreet, subject to the minister; he proving that the suspender possessed the lands the year controverted, and that the small teinds of the goods which he pastured thereon, extended that year to as much as the sum wherewith he was charged, because he had his relief against the heritor, the payment to whom was found not to relieve himself against the minister's charge. *Kirk v. Gilchrist*, 19th Feb. 1629, Dict. 14,786. Sup. I, 170.

5. A merchant having bought an heritor's crop *ipsa corpora*, before the teind was drawn, was found liable for the stipend as intromitter with the teind; though he alleged that he made *bona fide* payment to the heritor of the full price. *Vernor v. Allan*, 24th June 1662, Dict. 14,788.

6. A lady's liferent lands found liable for stipend, seeing it was modified out of the whole barony, reserving her relief. *Gall v. Lady Kinfauns*, 15th Dec. 1693. Sup. IV, 102.

7. The Lords found, that where ministers pursue for a locality, before the commission for plantation of kirks, the patron may make an allocation; but that in a process before the session, it was not receivable; but that the minister might distress any to the value of their teinds, until his stipend were settled. *Coupar v. Earl of Roxburgh*, 26th Feb. 1696, Dict. 14,791 and 12,411.

8. An appriser, who only had possessed one of the rooms appraised, leaving the other for the common debtor, who was necessitous, being pursued by the minister for the stipend out of both; the Lords, however this might

militate against the appriser, that he suffered the common debtor to uplift part of the rents, if a co-creditor were pursuing him to account; yet they considered that ministers had action against none but intromitters with the teinds; therefore they sustained the defence, and found him liable only for what he possessed. *Malcolm v. Irvine*, 7th July 1697, Dict. 14,791.

9. A creditor having poinded corns standing in the stoucks, and carried a rip of them to the mercat-cross, which was all he could do in that case, and the minister for his stipend, and some preceding rests, poinding the same corns before they were threshed, and carrying away as much as would answer to the teinds; the Lords found, that the minister had committed no spuilzie, but that he had right to retain, in so far as extended to the common debtor's proportion of a year's stipend, but not for any bygone, and that he must restore the superplus. *Cathcart v. Paton*, 22d Dec. 1698, Dict. 14,792 and 10,524.

10. The minister's right to a suitable stipend is paramount to all other claims upon the teinds of his parish. *Johnstone v. Heritors of St. Cuthberts*, 3d March 1802, Dict. 14,834.

## II.—WHAT GIVES RIGHT TO STIPEND—VACANT STIPEND.

1. Found, That a minister being presented by a patron, but not having obtained collation and institution, the stipend does not belong to him, but may be disposed of as a vacant stipend. *Thomson v. Viscount Haddington*, 7th Nov. 1611, Dict. 14,783.

2. Found, That a stipend of a suspended minister did not vague, the suspension being only interpreted to be *ab officio, non beneficio*. *Ker v. Steedman*, 26th July 1661, Dict. 12,528.

3. A minister presented before Whitsunday has right to the half of the stipend payable at Whitsunday, though his institution and collation may be after that term. *MacGill v. Lord of Cassillis*, 3d Dec. 1664, Sup. I, 501.

4. A minister being presented, and serving the cure till his admission, the same was drawn back to the

presentation, *quoad hoc*, to give him right to the stipend ; and the heritors, notwithstanding his intromission and the act of parliament, are liable to repair his manse, the stipend not being reputed vacant. *Minister of Fergandenny v. Parishioners*, 20th June 1668, Sup. I, 567.

5. A minister serving till March, and transplanted to be a stipendiary minister, will get that half-year's stipend. *Macqueen v. Pearson*, 26th January and 26th February 1670, Sup. I, 604 and 610.

6. A minister being presented to the parsonage teinds, *jure devoluto* by the bishop, cannot pursue for bygones since his entry, if the patron was in use to agree for a modified stipend with former ministers ; but prejudice to pursue for time coming. *Minister of Auchterhouse v. Hay*, 29th June 1670, Sup. I, 617.

7. A minister being presented, and serving the cure by the bishop's order until his admission, it will be drawn back to the date of his presentation ; so that the years in the interim are not due as vacant stipends. *Crawford v. Beaton*, 1st July 1673, Sup. I, 688.

8. In transportation of ministers, it is not the date of the presentation or collation that makes the kirk vacant from which the translated minister comes, but his institution in the church to which he goes ; so that the institution stops the vacancy of the church *ad quem*, and in lieu thereof, the vacancy of the church *a quo* begins, unless it be also filled *ex incontinenti*. *Scrogie*, Feb. 1676, Sup. III, 58.

9. Vacant stipend found to be due to a college in right of the patronage, although the kirk had been a mensal one. *College of Aberdeen v. ———*, 8th Feb. 1676, Dict. 14,789.

10. The Lords found, That the presentation of an actual minister before the term, gave not a complete right to the stipend, unless there had been a warrant for his transportation. *College of Glasgow v. Parishioners of Jedburgh*, 12th Dec. 1676, Dict. 14,790.

11. Stipend not due to a minister for terms after deposition by a synod. *The College of Aberdeen v. The Earl of Aboyne*, 10th Jan. 1679, Dict. 14,791.



12. Vacant stipend. *College of Edinburgh v. Hepburn*, 23d Feb. 1681, Sup. III, 396.

13. A church found not vacant, though the minister had desisted to preach, seeing he was neither deprived by the council nor by any church judicature. *Soryngeour v. Wemyss*, 10th Jan. 1694, Sup. IV, 201.

14. The act 1685, anent the disposal of vacant stipends, does not apply where the minister has been thrust out by the rabble. *College of Glasgow v. Wilson, &c.*, 6th Feb. 1694, Sup. IV, 143.

15. In a pursuit by a minister for his stipend, it being pleaded in defence that he had not qualified himself by taking the oaths conform to the act 1694, he was found entitled to the stipend (the certification of the act not having yet been applied by the sentence of any court), on finding caution to refund, in case it should be found that he had no right to it. *Gordon v. Cruickshanks*, 16th Feb. 1694, Sup. IV, 169.

16. A minister found entitled to stipend, having served for it by order of the commission of the General Assembly, though he was not an actual ordained minister, and so could not administer the sacraments. *Stewart v. McLean, &c.* 21st Feb. 1694, Sup. IV, 159.

17. A minister having been deposed by the presbytery in April, the Lords would not decern for that year's stipend, though the sentence was only in absence and for contumacy, and he had appealed. *Wood v. Thomson*, 20th July 1694, Sup. IV, 197.

18. The attestation of the presbytery anent the service of a minister in a parish, found sufficient probation to entitle him to the stipend, without further instruction. *Lauder v. Douglas, &c.* 5th Feb. 1695, Sup. IV, 260.

19. A minister pursuing the heritors for payment of stipend as paid to his predecessors, found, 1mo, That it was not competent for the heritors in this process to state an objection to his right to the benefice, on the ground that he was presented by the presbytery instead of the patron. 2do, That it was not competent for them to object that the pursuer had not taken the oath of abjuration. 3tio, That it was competent to the minister to sue

in the Court of Session for arrears of stipend, and for payment, according to former use, in time coming, until a constant modified stipend be allocated to him by the Teind Court. *M'Bean v. Mackensie, &c.*, 19th Feb. 1714, Sup. V, 103, Dict. 7841.

20. Found, that a judgment of the church, loosing the relation of a minister to his parish, or depriving him of his charge, did not deprive him of his right to the stipend, as what could only follow as a consequence of deposition. *Campbell v. M'Donald*, 26th Feb. 1741, Dict. 14,795.

21. A minister admitted upon a presentation from the patron last in possession, found entitled to the stipend during his incumbency, although another was afterwards found to have a preferable right to the patronage. *King's Advocate v. Dick*, 2d March 1753, Dict. 9954. Reversed on appeal.

### III.—PROCESS OF MODIFICATION AND LOCALITY.

1. A minister may take him either to the heritor or to the possessor of the room for payment of the teind duty. *Kirk v. Gilchrist*, 19th Feb. 1629, Sup. I, 170, Dict. 14,786.

2. A decree of locality being reduced, found that the reduction could not strike against years prior thereto; but that these years behoved to be paid conform to the then standing decret of locality *Scrimgeour, v. Moncrieff*, 15th Feb. 1695, Sup. IV, 268.

3. A minister having a decree of locality for so much money, and victual out of a barony, without any division upon particular rooms, he is entitled to affect the whole rent of any tenant, and is not restricted to the teinds of that room. *Lawrie v. Cunninghame, &c.*, 14th Feb. 1710, Sup. IV, 792.

(1.) A parish being disjoined, the stipend formerly modified upon the whole is allocated upon the original remaining parish, notwithstanding the use of payment had remained for fifty years, and the same after the disjunction, as before.

(2.) It was not necessary to call the heritors of the new parish as parties.

(3.) It was no sufficient defence, that the stipend still remaining was above the *minimum* settled by act of parliament.

(4.) A stipend is objected to as above the *maximum* of 1633, c. 19, but the stipend is allocated and decreed to be paid. *Lord Blantyre, &c. v. Currie*, 1st June 1714, Robertson, 88.

5. If an heritor, upon whose lands the stipend is localled, is personally liable to the minister? *Campbell v. Murray*, June 1726, Dict. 14,792.

6. A charge upon a decree of locality, though against a person not named in the decree, viz. a tenant, cannot be suspended, but upon consignment. Found, because of the former practice, though the Lords thought it not founded on the words of the act 1669. *M'Garroch v. Scott*, 22d July 1740, Elch. h. t. 2, Dict. 15,160.

7. A decree of locality subjects the heritor personally to the stipend localled upon his land, and upon that medium it was found that the minister may charge any of the tenants for payment of the sum localled; and that the tenant is liable to the extent of his rent, stock, and teind, so far as the rent is in his hands. *Minister of Eskdalemuir v. Scot*, 30th July 1742, Dict. 14,795.

8. A minister on his decret of locality may charge a tenant for his stipend, not only to the extent of the fifth part of the rent, but of the whole rent, if it be still in the tenant's hands. *Mr. James M'Garroch v. Scott*, 30th July 1742, Elch. h. t. 4.

9. To what period a locality draws back. *Gordon v. Dunbar*, July 1752, Elch. *Teinds*, 33.

10. Whether a patron may pursue a process of modification and locality. ——— *v. Minister of Areskine*, 27th Feb. 1754, Sup. V, 812.

11. A decree of locality, in respect it has been pronounced in absence, and that an error had been fallen into, and a wrong done, reduced. *Wallace v. E. of Stair*, 4th Dec. 1771, Dict. 1223. Hailes, 456. Dict. 12,213.

12. After two parishes have been long united, whether they are to be considered as one in localling an augmented stipend. *Ogilvie v. Bower, &c.*, 13th July 1774, Dict. 14,815.

13. In localling a minister's stipend, those possessing the teinds of their lands by tacit relocation from the crown, as coming in the place of a bishop, are considered as having an heritable right. *Heritors of Kirkliston v. Wright*, 17th Dec. 1788, Dict. 15,326.

14. Teinds vested in the crown, in right of the bishops, cannot be allocated in payment of stipend, till those heritably possessed by the proprietors of the lands are exhausted. *Skene, &c. v. Officers of State, &c.*, 3d June 1795, Dict. 14,822.

15. Teinds belonging to a college are not liable for stipend till those heritably disposed to the proprietors of the lands are exhausted. *The Heritors of Portmoak v. Douglas*, 19th Dec. 1795, Dict. 14,823.

16. Where part of the lands in a parish are subset, the rent paid by the principal lessee, and not that which he receives from the subtenant, is adopted as the rule for ascertaining the burden to be imposed on them in a process of augmentation and locality. *Earl of Cassillis v. Finlay*, 16th December 1795, Dict. 14,826.

17. In an united parish, where the teinds of the parishes of which it is composed belong to different titulars, an augmentation of stipend must be allocated on them, in proportion to the proven rental of each parish. *Maxwell v. Earl of Hopetoun*, 5th Dec. 1798, Dict. 14,832.

18. When there two titularities in a parish, the burden of augmentations of stipend is borne by them according to the proven rental of the lands in each; and separate schemes of locality are made up, subdividing the burden among the heritors in each, according to the ordinary rules. *Duke of Hamilton, &c. v. Lord Dundas, &c.*, 23d Jan. 1799, Dict. 14,833.

19. An heritor's raising an action of valuation and sale, during the pendency of a locality, will not prevent his tithes from being allocated proportionally with others

not heritably disposed, if the competition arises between him and the titular of the tithes, who is also an heritor in the parish. *Earl of Mansfield v. Duke of Queensberry*, 21st May 1800, Dict. App. *Teinds*, 9.

20. Found not competent, in a process of locality, to adjust overpayments by heritors upon interim schemes of locality. *Common Agent v. Abernethy's Heritors*, 8th Dec. 1819.

#### IV.—PROCESS OF AUGMENTATION.

1. A minister found entitled to pursue an augmentation, though he had promised to his parishioners that he would never seek an augmentation. *Minister of Tillis-coultry v. Nicolson*, 21st Nov. 1677, Sup. III, 198.

2. A second minister established by private agreement, not entitled to an augmentation. *Marshall v. the Town of Kirkaldy*, 7th July 1738. Dict. 14,795, *h. t. 1*.

3. *Minimum* of stipend. *Pollock v. Heritors of Kilmalan*, 19th Nov. 1740, Elch. *h. t. 3*.

4. In what case competent for a second minister to pursue for an augmentation. *Fairnie v. Heritors of Dunfermline*, 14th June 1749, Dict. 14,796. Elch. *h. t. 6*.

5. Augmentation of stipend. *Beattie v. Heritors of Marytown*, 4th July 1753, Elch. *Teinds*, 36.

6. Augmentations may be given out of teinds belonging to bishops and universities. *College of St. Andrews*, 2d July 1755, Sup. V, 833.

7. Defenders in a process of augmentation of stipend bound to produce all grants from the crown, or from private persons, towards the ministers' subsistence. *Ministers of Edinburgh v. The Magistrates*, 20th July 1763, Dict. 3969.

8. *Minimum* of a stipend. *Reid v. Heritors of Beith*, July 1766, Hailes, 74.

9. Augmentation of stipend refused, in respect of an augmentation, by a decree in 1709; but the subsequent decree of locality not pronounced till 1715, and localling

the whole stipend in money, in place of a former locality of victual in part, found no bar to a rectification in that particular; and a small addition also made to the former allowance for communion-elements. *Williamson v. Heritors of Arngask*, 25th Nov. 1772, Dict. 14,808.

10. The value of teinds, in a question with the minister, can be ascertained only by a proper decree of valuation of the proper court. Hence the proceedings in a prior action of modification, now founded on as importing a valuation, found no bar to a new process of augmentation at the minister's instance, on the ground of the valued teind being exhausted. *Know v. The Heritors of Slamanan*, 23d June 1773, Dict. 14,809.

11. No new augmentation of stipend to be given where one had been obtained since the Union. *Milligan v. Heritors of Kirkden*, 4th August 1779, Dict. 14,816. Reversed on appeal.

12. If a minister's stipend has been already augmented posterior to the Union, it is not competent to claim another augmentation. *Mitchell v. Heritors of Tingwall*, 23d Dec. 1786, Dict. 14,817. Reversed on appeal.

13. Those bishops' tithes alone are exempted from the burden of augmentations which belonged to that rank of the clergy at the Reformation. *Officers of State v. Christie*, 16th July 1788, Dict. 14,818.

14. When the teinds are valued in money, an augmentation cannot be modified in grain. *Gordon v. Earl of Fife, &c.*, 27th Feb. 1793. Dict. 14,821.

15. Where part of the lands in a parish are sublet, the rent paid by the principal lessee, and not that which he receives from the subtenant, is adopted as the rule for ascertaining the burden to be imposed on them in a process of augmentation and locality. *Earl of Cassillis v. Finlay*, 16th Dec. 1795, Dict. 14,826.

16. An augmentation of stipend may be given in grain, although the teinds of the parish should be valued in money. *Mitchell v. Douglas, &c.*, 24th Jan. 1798, Dict. 14,827.

17. The minister of a parsonage is not barred from bringing an augmentation of his stipend by his having

previously granted a tack of the teinds of the parish in favour of the patron. *Stewart v. Earl of Fife*, 14th May 1800, Dict. App. h. t. 4.

18. An obligation granted by the minister of a parish to the heritors, that on withdrawing their opposition to a former augmentation of his stipend, he should not bring another during his incumbency, does not prevent him from again applying for one. *The Earl of Kelly &c. v. Heritors of Carnbie*, 9th March 1803, Dict. 15,710.

19. A minister is entitled to interest upon this augmented stipend from the date of a charge upon his decree of modification, although the locality had not then been adjusted. *Andersons v. Urquharts*, 31st Jan. 1805, Dict. 14,836.

20. An assistant and successor to a minister cannot pursue an augmentation. *Shaw v. Heritors of Robertson*, 29th Jan. 1806, App. h. t. 5.

21. Stipends of ministers may be augmented by the present Court of Teinds, though augmented by it before. *Minister of Prestonkirk v. Earl of Wemyss*, 3d Feb. 1808, Dict. App. h. t. 6. Remitted on appeal.

22. Interest is due on arrears of ministers' augmented stipends from the date of the process of the augmentation to that of the decree of locality, without any charge upon the former decree, or even demand of payment during that time. *Dawson v. Pringle*, 15th June 1808, Dict. App. *Annualrent*, 5.

23. In modifying augmentation, is extraordinary value of glebe to be taken into consideration? *Minister of Old Deer v. The Heritors*, 23d Nov. 1808.

24. Stat. 48 Geo. III, c. 138, § 1. The words of that act, "last final decreet of modification," apply to an interlocutor simply adhering to another, which originally granted the augmentation or modification, not to the interlocutor adhered to; and the words "that it shall not be competent to the Lords of Session to augment," imply that it shall not be competent to commence the action of augmentation. *The Rev. George Dunn v. Heritors of the Parish of Inch*, 6th June 1810.

25. A considerable provision of land having been mor-

tified for the support of the minister of a parish, it was found, that although not thereby barred from pursuing an ordinary process of augmentation, yet the incumbent was bound to show that he was not suitably provided; and it appearing that the rent of the mortified lands was a suitable provision, an augmentation from the teinds of the parish was, in the circumstances of the case, refused. *Rev. George Allan v. King's College of Aberdeen*, 23d Jan. 1811.

26. What is understood to be sufficient warrandice, not only from the payment of present, but from all future augmentations of stipend. *Earl of Hopetoun v. Sir Alexander Jardine, Bart.*, 3d July 1811.

27. In modifying an augmentation, the Court will not take the value of the glebe into consideration, where it does not appear to have been intended to form part of the benefice. *Rev. Thomas Kennedy v. Richardson*, 9th Dec. 1818.

28. A clause of warrandice to a vassal in a feu-contract, in order to carry relief from future augmentations of stipend, must be express to that effect. *Trustees of the Earl of Hopetoun v. Copland*, 8th Dec. 1819.

29. An obligation of relief from payment of any teinds and ministers' stipends in all time coming, found to extend to future augmentations, the lands having been previously conveyed to the grantee without the teinds. *Low v. Bethune*, 31st Jan. 1821. *Vide Kerr*, 21st Nov. 1821, *Shaw's Teind Cases*, 12 and 37.

30. An obligation in a feu-disposition, where a price is stipulated for the lands with a feu-duty and a fixed duty for the teinds, to defend against "all stents, taxationes, and impositiones quhatsomever; als weel not named as named, imposed, or to be imposed upon the personag and vicarag teinds of the lands, be any persone or personnes quhatsomever, at any time hereafter, and at the handes of the minister present or to come, or any utheris having, or pretending to have, entres thair-to," found not to relieve from future augmentations of stipend. *Hamilton v. Calder, &c.*, 13th June 1823.

31. The patron of a parish having acquired a tack of



all the teinds of the parish, which was subsequently prorogated; and having assigned part of the teinds so held by him to a third party, who was to bear the burden of future augmentations, &c. according to an equal proportion with the rest of the teinds of the parish, and thereafter the patron having acquired right by the statute 1690, c. 23, to the teinds of the parish, not heritably disposed, and an augmentation having been subsequently granted to the minister; held (remitting with special findings to the Court of Session) that in a question with the patron and cedent, the assignee was only liable to be allocated in proportion to the other teinds of the parish, and that the patron could not insist on the teinds so assigned by him being entirely allocated *primo loco*. *E. of Seafield v. Abercromby*, 16th July 1823, Shaw's Appeals, 485.

#### V.—MISCELLANEOUS CASES.

1. Long possession alone found to entitle the minister to the stipend. *Herries v. Lockerby*, 4th July 1661, Dict. 7948.

2. Stipend is not *debitum fundi*, and the heritor is not liable as long as there is a liferenter who intromits with the whole rents. *Mensies v. Lord of Glenorchy*, 24th June 1663, Dict. 14,788.

3. Found, That a minister's assignation to a tack duty being fortified with seven years' possession, whatever were the defects thereof, was sufficient to maintain his right of the stipend, and to infer decerniture against the heritors. *Fergusson v. Agnew*, 11th Jan. 1666, Sup. I, 517.

4. A bishopric cannot be burdened since the late restitution, unless it can be alleged that the stipend craved, or any part thereof, was paid by the bishops before the year 1637. *Kennedy v. Bishop of Orkney*, 1st July 1668, Sup. I, 569.

5. A bishop presenting a minister to a kirk and local stipend thereof, if it be not expressed, but only bear to be modified stipend, will be only interpreted to the modified stipend before thirty-seven years, albeit there were

one modified thereafter, but before this late restitution. *Swinton v. Bishop of Edinburgh*, 12th June 1669. Sup. I, 584.

6. Stipend due, although the lands out of which it is payable have been wasted by the calamity of war. *Stevenson v. Earl of Tweeddale*, June 1673. Sup. III, 11.

7. Term of payment of stipends, being victual, though it is not paid at Martinmas, it is receivable on Candlemas day; and an offer made when part was receiving, to deliver the rest, was found sufficient, so as time was allowed to measure victual, and to bring horse to carry it away; but that neither being demanded nor offered, the price was not sustained according to the Lammass fiars, when the price rose to the double, nor according to the Candlemas fiars, but the Lords modified betwixt the two. *Gray v. Laird of Cockburn*, 16th June 1675. Sup. II, 186, Dict. 3150.

8. Act 1584, c. 132. What sufficient cause for deprivation of a minister. *Stewart v. Marquis of Athol*, &c. 28th Dec. 1692. Sup. IV, 35.

9. Churchmen possessing houses in Canongate, found liable for annuity for the stipend of the minister. *Jackson v. Archbishop of St. Andrews*, 24th Feb. 1699. Sup. IV, 442.

10. Act 1690, c. 2, and c. 5. *Turnbull v. Heritors of Dalmeny*, 18th Dec. 1701. Sup. V, 5.

11. Decennalis et triennalis possessor. Act 1690, c. 23. *Minister of Lethendie v. Officers of State*, 5th Dec. 1716. Sup. V, 8.

12. Found that the 9th act 1669, anent the prescription of minister's stipends, extends to those stipends during a vacancy, as well as when there is an incumbent. *Gloag v. McIntosh*, 3d July 1753, Elch. h. t. 8, Dict. 11,063.

13. Where a minister's stipend is modified, though he may lose part of it by the negative prescription, he can acquire nothing beyond it by the positive. It is like a bounding charter. *Blair v. Inhabitants of Clayhole*, 16th Nov. 1762. Sup. V, 521.

14. Annexation *quoad sacra* found not to subject the heritors of the lands annexed, in payment of stipend to the

minister of the parish whereto they are annexed. *Knor v. Hunter, &c.*, 22d July 1772, Dict. 14,802.

The exception in the act 1690, c. 28, along with possession by the minister of an annual duty and services out of lands formerly holden of the vicar of the parish with that reddendo, found to give the minister a preferable right both to the feu-duty and personal services in question, with the patron, now become proprietor of the lands. *Wallace v. Earl March, &c.* 29th June 1773, Dict. 14,812. Hailes, 531.

Application of the stipend of a suppressed parish. *Elliot v. Ministers of Abbotrule*, 19th Feb. 1777, Dict. App. h. t. 1.

Certain heritors of a parish pursued the minister for repetition of the money for communion-elements for twelve years, during all which time he had omitted to administer the holy sacrament. Urged in defence, the money for communion-elements is to be considered as a part of the minister's stipend, of which he cannot be deprived, unless he is previously deposed from his function by the proper ecclesiastical court. The Lords found no claim of repetition competent. *Hay, &c. v. Williamson*, 14th July 1780, Dict. 14,817 and 2,492.

18. When a joint feu-duty is payable for stock and teind, the portion paid for the latter is free teind. *Dundas v. Baikie, &c.*, 13th Feb. 1793, Dict. 14,820.

19. Where the teinds are exhausted, the court cannot award an allowance for communion-elements out of the stock. *Wilkie v. Heritors of Cult*, 13th Feb. 1793, Dict. 14,821 and 2,493.

20. Temple-lands are not exempted from payment of stipend. *Leslie v. Heritors of Rayne*, 14th Jan. 1800, Dict. App. h. t. 2.

21. Lands which originally formed the vicar's glebe are not liable to stipend. *Cranstoun v. Elliot, &c.*, 12th Feb. 1800, Dict. App. h. t. 3.

22. A minister is entitled to the selling prices of the victual due as bygone stipend. *Wright v. Binning*, 8th Dec. 1801, Dict. 14,833.

23. Although the teinds of a parish be surrendered,

the victual stipend is still to be paid according to the fiars of the county. *Sir John Maxwell v. Rev. D. Don*, 2d June 1813.

24. Lands formerly belonging to the Cistercian monks, but erected into a temporal lordship in 1587, and granted "*cum decimis inclusis*," are not exempted from the payment of stipend, unless it clearly appear that they were either *novatio* or *labanes*. *College of Glasgow v. Henry Monteith, &c.*, 16th June 1813.

25. Where there is no surrendering of teinds by the heritors, but where the whole teinds of a parish are modified by decret of court as stipend to the minister, the court is not entitled to authorize the minister to draw his stipend in kind, but must ordain the stipend to be paid by the far prices of the county, in terms of the 11th section of the 48 Geo. III, c. 138. *Rev. Dr. Smith v. Duke of Portland, &c.* 22d June 1814.

26. Victual stipend converted into money according to the county fiars, is payable by the Linlithgow measure, without any regard to the measure of any particular county where the parish is. *Minister of Rothsay, petitioner*, 24th May 1820.

*Vide Cases in Practical Account of Teind Court*, p. 407.

# NOTES

OR

## PARDOVAN'S COLLECTIONS, &c.

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PREVIOUSLY to the publication of Dr. Hill's *Institutes*, Walter Steuart of Pardovan's "Collections and Observations, concerning the Worship, Discipline, and Government of the Church of Scotland," was the only systematical treatise which afforded anything like a concentrated view of our reformed national establishment, deduced from the civil and ecclesiastical statute laws by which it was constituted and governed, and embodying a detail of the usages of the presbyterian church, from its first foundation, till the time of its appearance in the year 1709. During the century and upwards which has elapsed since its publication, it has accordingly been deemed a standard authority and guide in the church, as much so as the Commentaries of any Institutional writer on the municipal law; nor, although it is not much referred to as authoritative in the loose discussions of our church judicatories, has it been superseded in utility by any other work as a fountain whence our church leaders and orators derive the principal part of their information. It is a work of great and unquestionable merit, and serves as a faithful index to the whole body of our ecclesiastical law and practice; and although many of the usages belong to the primitive state of the church, and the style be now somewhat antiquated, these circumstances do not materially detract from its value.

Viewing this work therefore in this favourable light, it seemed a matter to be regretted, that the only correct edition of it had, for many years past, become extremely rare; and the only impressions of it attainable by the members of the church, namely, that of Dickson and

Elliot in 1783, and another published at Montrose of a later date, in a very mean and inaccurate state, were neither to be easily procured nor relied upon. In these circumstances, a new and neat and accurate edition of it was deemed advisable; and the only addition which it seemed to require, was a series of *Notes*, indicating the changes which had been superinduced upon the law as stated by Pardovan, by annexing the evidence of such changes effected in later acts of the General Assembly and otherwise.

It was originally our intention to have done this in foot notes, on the several chapters and sections into which the work is divided; but on further reflection, it was considered better, in every point of view, to give separately, and in alphabetical order, a consecutive and abridged view of the whole Acts of Assembly relative to the matters treated of by Pardovan, both before and since the time that his work was first published. Such a continuous digest, under the several heads into which the subject is divisible, seemed calculated to corroborate the authority of his statements, and to indicate most conveniently for the inquirer, the progressive changes which had been introduced subsequently to the time he wrote; thus combining the traditionary evidence, as it may be called, of our early commentator, with the authentic and recorded acts and decrees of the supreme ecclesiastical legislature and judicatory of our church. And in order to complete the compendium, a similar digest of the municipal laws operative upon the church, as contained in acts of parliament and decisions of the supreme court, appeared to be a useful and necessary appendage. This has now been accomplished in the preceding pages; and they will be found to contain, in the form most practically useful, the great body of what we contemplated as the Notes upon Pardovan.

There are still, however, a few topics of prominent importance, but lightly touched on by the author, which, on that account, as well as in consequence of material changes in later times, require a fuller illustration than can be given in a brief abridgment of the statutes and

decisions relating to them, although these have been pretty extensively given. The chief of these are with regard to the laws for the relief of *the Poor*, and to the *School* Establishment of Scotland, the administration of both which is in a great measure devolved on the presbyteries and parochial clergy of the church. These matters, indeed, next to the primary object of religion itself, and the maintenance of the institutions by which its ministration is purified and upheld, are amongst the highest functions with which the church is invested ; and it is to the honour of the Church of Scotland, that from the first dawning of the Reformation, the interests of education and of the poor, have formed leading objects of its paternal and beneficial care, and that its exertions in these departments have been crowned with a degree of success unexampled, perhaps, in any other region of the world. To these two subjects, therefore, we propose chiefly to limit our attention in the following brief notes ; and it is our object in so doing to condense within the narrowest bounds as much information as possible of a practical nature, in order to aid those who may not have access to ampler and better sources of intelligence, in following out usefully the beneficent spirit of the law, in the hallowed work which is consigned to their hands.

It was our intention further to have completed a collection of decisions by the General Assembly on important questions which have been agitated, as tending to afford what might be considered the *decided church law*. But although we have made considerable progress in this, we have been dissuaded by those whose judgment we respect, from completing or publishing it. There is a disadvantage resulting from the popular and mixed judicial and legislative character of the General Assembly, which distinguishes it materially from courts of law. While the latter look upon previous decisions, and upon a series of these in accordance, as of authority nearly if not quite equal to a legislative enactment, the General Assembly can scarcely in any instance be found to listen with any degree of complacency to precedents ; nor is this to be much wondered at, when it is considered that

party ties, and popular feelings, and local cabals, too often influence the decisions of that venerable body, so as to deprive them in most cases of that character of deliberate and impartial judgment which can alone confer on precedents the stamp and force of authority. Neither is it possible in practice to induce a great portion of the members to discriminate their legislative from their judicial functions. In judging on particular causes, they are perpetually led astray, if not by partialities and party leanings, at least by the reflection that they unite with the judicial, a complex legislative and superintending power; and it is extremely difficult in most cases to persuade a great portion of the members, when judging on causes, to divest themselves of the *nobile officium* with which most tribunals in the last resort are prone to clothe themselves. Hence an unwilling ear is generally lent to every argument founded on precedent in the General Assembly; and hence, too, we so often see the elementary laws of evidence, and the most sacred forms of procedure, and all the analogies of former decisions, trampled under foot, and broken through and contemned, and causes decided upon an assumption that, in the supremacy of its complex authority, the General Assembly may decide a cause, as if they were legislating on the principles involved in its merits. The inveterate prevalence of such a spirit, much as it is to be regretted, is, we fear, inseparable from its popular and fluctuating character; and it renders any collection of decisions, therefore, in a great measure, useless lumber. We have therefore, though with reluctance, abandoned this branch of our undertaking, as neither calculated to do good, nor to be acceptable to many of our readers.

In addition to these considerations we may state, that in the present condition of the records of Assembly, it is next to impossible to procure access to the several processes on which decisions of importance have been given. It would require the labour of years to search out the original papers in those causes, and without them it would be impossible to draw up reports of the precise facts to which the rules of law were applied in the decisions



given ; and in such a state of matters, anything like a satisfactory collection of decisions is almost hopeless. This evil will, in a great measure, be obviated by the adoption of an overture introduced by Mr. Douglas of Ellon, into the last Assembly, and transmitted to presbyteries, namely, to print the record in all causes brought up from the inferior courts for review. This overture, among many other advantages, will supply a basis for the accumulation of precedents, easily accessible to every member of the church ; and this, it is to be hoped, will in time introduce a more wholesome and consistent course of procedure in the judicial department of our Assembly's deliberations. In the meanwhile, we may refer our friends to an excellent manual on "The Practice in the several Judicatories of the Church of Scotland," by Dr. Alexander Hill of Dailly, which appeared in May last, after our publication had commenced, and in which reference is made to many cases that have been decided upon almost every point of importance, with regard to which the several judicatories of the church may be called upon to avail themselves of the light afforded by previous decisions of the supreme ecclesiastical court.

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## THE PAROCHIAL SCHOOLS OF SCOTLAND.

Having in a former part of this volume inserted the most important statutes now in operation relative to the parochial schools, it is here only necessary to give a slight connected view of the history of that establishment, and of a few cases in the courts of law relative to the institution.

So early as the reign of James IV. (1496) there was an act of parliament passed, ordaining, that "all barones and substantious freeholders sould put their airs to ye schulis."\* And by an act of privy council in 1616, the establishment of schools in the particular parishes of the kingdom was accomplished for the promotion of "civilitie, godliness, knowledge, and learning," where the youth of

\* Balfour "anent schulis," p. 132.

the kingdom might be taught "at the least to write and read, and be catechised and instructed in the grounds of religion."

During the prevalence of popery, our schools, and education generally, were exclusively under the control and conduct of the church; and at the Reformation, as will be seen in the early Acts of Assembly, the utmost solicitude was evinced by our churchmen for the maintenance of the schools. An act of privy council enacted, that "in every paroch of this kingdom whair convenient means may be had for intertaining, a schoole shall be established, and a fit person appointet to teach the same, upon the expense of the parochiners, according to the quantity and quality of the paroch, at the sight and by the advice of the bishop of the diocese in his visitation;" and this royal ordinance was sanctioned by an act of parliament in 1633, c. 5. But it was not until after the Revolution 1688, when the existing protestant institutions of Scotland were finally and firmly established on their present footing, that the presbyterian church, and schools as a branch of it, were secured to the country by statute in 1693; and in 1696, the act "anent the settling of schools" was passed, and embraced all the vital parts of the law on the subject as it now exists, more largely extended by the act 1803, 43 Geo. III, c. 54. These statutes will be found at p. 362 *et seq.* of this volume. The only other act of parliament touching our schools is one for the establishment of a fund for the benefit of widows and children of parochial teachers, which was passed in 1793, and which is now in a very prosperous state, the trustees having realized a capital of above £33,000.

Connected with this subject, we may notice the General Assembly's schools which were set on foot in the year 1824, chiefly by the benevolent zeal of Dr. George Baird, principal of the University of Edinburgh.\* The object of the church by this institution, was to provide schools in those extensive districts of the highlands and islands, where the population were so much scattered and separated by local circumstances, that the parochial schools

\* *Vide* Acts of Assembly, 27th May 1824.

could not, by possibility, be available for the instruction of the people. And in this point of view, this branch of our established schools must be regarded as eminently beneficial. It has been sustained by the voluntary contributions of individuals, collections in the churches, and gratuitous gifts of accommodation by the landholders in aid of the church ; and already there are upwards of eighty schools established in districts of the highlands and islands, which, without this beneficent scheme, must have continued destitute of the means of education. There is just one hazard to which this scheme is liable ; that, depending upon eleemosynary funds for its support, there is some risk of its falling off in efficiency by a destitution of means, and of the establishment being extended prematurely beyond the pitch to which it can be upheld after the first effervescence of zeal, awakened and brought into operation by the unwearied exertions of an individual, shall have subsided. There is a risk, too, that it may trench upon the legal establishment, by being substituted, in some instances, for the schools which ought to be legally appointed, and for which there is a permanent endowment ; for there is reason to apprehend that, in some instances, the Assembly's schools have been or may be granted to parishes in which the regular school establishment has not been provided. Indeed we know that, in many instances, the existing law of the land has been evaded, under the power vested in heritors to subdivide parishes into districts, and apportioning the scanty salaries among the teachers—there being in that case no obligation on them to provide a house and other necessary accommodations ; and this power has been sometimes exercised in so niggardly a manner, as to defeat entirely the object of the law, and leave some parishes entirely destitute of any efficient parochial schools. In carrying the Assembly's scheme into effect, therefore, it ought most carefully to be attended to, that the legal parochial schools shall in every case be fully endowed ; for if this be not done, the Assembly's schools would in time supersede the national institutions, which are permanently provided for ; and gradually as the voluntary supplies fell off, the Assembly's schools would expire, and in those districts where

the regular schools had not been fully provided for by the compulsory exaction of means for their support, the establishment may be undermined by an auxiliary scheme superseding the legal institutions. This contingency ought to be most vigilantly guarded against. And it is the duty of presbyteries, and more especially of parish ministers, to see that the law for parochial schools be in every case fully carried into effect, before any subsidiary and perishable supply be allowed to assume the place of the permanent and legally endowed schools of Scotland. This it is fully in the power of the church most religiously to enforce; for it was found in the case of the minister of Reay against the Heritors, 31st July 1773, that if by supineness or connivance among the heritors, commissioners of supply, and presbyteries, this duty be neglected, the minister of the parish has the power of enforcing the fulfilment of the law by application to the supreme civil court. Unless, therefore, the parochial schools are in the first instance duly settled and provided in every case, the wise and benevolent purposes of the General Assembly may be frustrated, and the schools established by them may eventually become the means of impairing, instead of aiding that system which the legislature has provided for the education of the people of Scotland in its remotest districts.

There is another branch of our national schools which ought not to be overlooked, viz. that in India. In 1824\* the utility of such an establishment was brought under the consideration of the Assembly, by a petition from the Reverend Dr. Bryce of Calcutta; and a committee of Assembly having been appointed to forward the object in view, under the auspices of Dr. Inglis as its convener, the zeal and prudence which have been carried to the management of that institution, have been so far crowned with success, that one teacher has already commenced his labours at Calcutta, and another is on the eve of going out to join in labours, which, judiciously conducted, cannot fail, by extending the advantages of good education to the children of natives, to extend the empire of civilization and pure religion in the vast regions of the eastern world.

\* *Vide* Acts, 27th May 1824.

Of the state of the law with regard to schools and schoolmasters, it is not necessary to go into much detail, for the statutes 1696 and 1803, if attended to and enforced, are sufficient to guide all parties interested in the proper exercise of the functions entrusted to them. It is of great importance, however, that the letter and spirit of the statutes should be closely and invariably adhered to in the settlement of schoolmasters, as well as in processes for deposition; and when inconveniencies and litigations arise out of the application of the acts of parliament, these have in almost every instance been occasioned by slovenly inattention to the plainest injunctions of the law. In settling the schoolmaster, the forms prescribed should be adhered to; for when this is omitted, the consequences rarely fail to be injurious, of which an instance recently occurred, where, after officiating fourteen years, and drawing his salary as a schoolmaster, an individual was deprived of his office, because there was no regular minute of election by the heritors when he entered, and no proper examination by the presbytery;\* and many other instances could be pointed out of similar inconveniencies.

It may be sufficient to state a few principles which have been established by decisions of the supreme, civil, and ecclesiastical courts, relative to the law touching schoolmasters, under the existing statutes.

1. A schoolmaster cannot be legally settled, or have any sufficient title to enjoy the emoluments of his office, unless he be appointed to the office in a written minute of election by the heritors assembled, in terms of the act 1803; and unless he be subsequently examined and found qualified by the presbytery of the bounds.

2. He cannot be removed from his office except upon cause shewn in a regular process at the instance of the minister, heritors, or elders of the parish, before the presbytery of the bounds; and the decision of a presbytery is not in any case liable to review in the church courts, or even in the civil court, unless there be an excess of

\* *Matheson v. Dunsmure, &c. and Presbytery of Wigton*, Dec. 16, 1829, and 8th July 1830.

jurisdiction, or a manifest deviation from the rules of procedure prescribed by the statute.\*

By keeping these principles steadily in view, schoolmasters, presbyteries, and others, will avoid many inconveniences; and a strict adherence to the law will tend, in an eminent degree, to promote the usefulness of the establishment, and the happiness of the very respectable class to whom the public education is entrusted.

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## SUMMARY VIEW

OF THE

### LAWS FOR THE MAINTENANCE OF THE POOR IN SCOTLAND.

THESE laws originated in the frightful state of pauperism and demoralization which existed in Scotland during the semi-barbarous periods of its history. The whole country was overrun with beggars and thieves, who were significantly described in the quaint language of the statutes as "sorners and sturdy beggars," and who were so numerous, that even in the end of the seventeenth century, Fletcher of Saltoun computed the number of persons begging from door to door, and extorting sustenance by violence, as amounting to 200,000.

The various statutes of the Scottish legislature, which aimed at the repression of this enormous evil, are very numerous, beginning with three in the reign of James I,

\* *Heritors of Fraserburg v. Bannerman*, Acts of Assembly, 1810.

Although the jurisdiction of presbyteries in regard to schoolmasters is declared final, without appeal to, or review by, any court, civil or ecclesiastical, it is nevertheless competent for the Court of Session to review proceedings that are inconsistent with the provisions of the statute. *Brown v. Heritors of Kilberry*, 15th Nov. 1825; also *Ross v. Findlater*, 2d March 1826; *Heritors of Corstorphine v. Ramsay*.

[Annuity provided under act for raising and securing fund for widows and children of burgh and parochial schoolmasters, held to be arrestable by the creditors of widows entitled thereto, in respect of its not being expressly declared alimentary. *Irvine, &c. v. MacLaren*, 24th Jan. 1829.]

and continuing downwards. In one of these (chap. 25) a distinction is made betwixt those who are able to earn their own livelihood, and those who are obliged to resort to the charity of others, declaring, that none should be allowed to beg between the ages of fourteen and seventy years, unless they should have tokens or badges from the magistrates of towns or landward heritors ; while those who had not such badges were to be charged to work, under the pain of branding on the cheek and banishment. The principle of this statute was further enforced, by conferring on sheriffs a power to inquire into the condition of all idle men, who had not the means of subsistence, and to deal with them accordingly ; and the statute-book contains a series of acts which are now interesting only as indicating the deplorable state of society in Scotland, and the impotence of mere law, however vindictive and sanguinary, to repress the evils resulting from poverty and moral degradation.

Until the year 1503 no effectual steps seem to have been taken to remedy the evil alluded to ; but by an act of that year, directing the act 1424 to be observed, a provision is made for correcting the negligence of the authorities in enforcing the law. By that act (chap. 70) the class who are to enjoy the privilege of begging is distinctly pointed out, and it ordains the sheriffs and magistrates to allow none to beg within their bounds except "cruikit folk, seick folk, impotent folk, and weik folk," under a penalty ; and by a subsequent act in the time of James V. (1535, chap. 22), it was enacted "that nae beggars be thoiled to beg in ane parochin that ar born in ane uther ; and that the headesmen of ilk parochin make takinnes, and give to the beggars thereof, and that they be sustained within the bounds of that parochin ; and that nane others be served with almous within the bounds of that parochin, but they that bearis that takinne allanerlie."

It was not, however, until 1579, the reign of James VI. (chap. 74) that an act was passed which laid the foundation of our system of poor laws in Scotland, and which, along with a proclamation by the privy council, is even now the only authority for enforcing a compulsory

provision for the maintenance of the poor. It is framed, not merely for the suppressing of "strang and idle beggars," but for the charitabil relieving of aged and impotent puir people." For this purpose, it directs the magistrates in towns, and the justices to be constituted by the king's commission, in parishes to landward, to take inquisition of "all aged, pure, impotent, and decayed persons, borne within that parochin, or quilkas war dwelling or had their maist common resorte in the said parochin the last seven zeirs by-past, quilkas of necessitie man live bee almes," to prevent them from begging, and to arrange where they shall lodge, with advice of the parishioners.

An assessment for their support is then authorized in the following terms: "And thereupon, according to the number, to consider quhat their neideful sustentation will extend to every oulk (week), and then, be the gude discretion of the saidis provost, bailies, and judges in the parochinis to landwart, and sic as they sall call to them to that effect, to taxe and stent the haille inhabitants within the parochin, according to the estimation of their substance, without exception of persons, to sic ouklie (weekly) charge and contribution as sall be thoct expedient and sufficient to susteine the saidis pure peopil."

This assessment is ordered to be renewed every year, and adapted to the circumstances of the parish occasioned by death or other contingencies; and those who either refuse to contribute their assessment or discourage others from doing so, shall be liable to imprisonment. The act further provides that those who are able to work shall be compelled to do so, or punished as vagabonds; and any of the lieges may take into their service paupers' children betwixt the ages of five and fourteen years, and right is given to their labour to the age of twenty-four in males and eighteen in females, and it authorizes the poor to ask alms in their own parishes, having proper testimonials.

Other acts were passed in 1592 and 1597, by the former of which sheriffs were empowered to hold courts and summon assizes for the trial and punishment of vagabonds, and power was given to persons to be appointed by the kirk-sessions of carrying into execution the whole benefi-



cent provisions of the act 1579; and this power was transferred by the act 1597, chap. 272, to these bodies themselves—an alteration which has resulted in the establishment of a body for the administration of our poor laws, which has been found by experience to be infinitely better than any established elsewhere, to wit, the minister and kirk-session of every parish; and the landholders acting conjunctly in this important trust.

By this latter statute the servitude of beggars' children was extended to their whole lifetime—a principle of slavery which was systematized by subsequent statutes, but which, if not already abrogated by desuetude, ought to be blotted from the statute-book.

It appears from the acts 1600, chap. 19, 1617, chaps. 8 and 10, that the existing laws were still insufficient for the repression of pauperism, and again, after the restoration of Charles II., the subject seems to have been under the consideration of the legislature. By an act 1661, chap. 38, justices of peace were authorized to make up lists of the poor in each parish twice in the year, to appoint overseers to receive and distribute the collection and other funds for their maintenance, and, generally, to take the whole management. Another act was passed the same year for the establishment of manufactures, in order to afford employment; and by another act in 1663 the manufacturers were invested with power to seize all vagabonds and idle persons, and to make them work for a space to the extent of eleven years, giving them meat and clothes only. These acts, however, never were carried into execution, and are now in complete desuetude.

A similar system of coercion was contemplated by another act, 1672, but that has likewise become inoperative, with the exception of that part of it which relates to the impotent poor, with respect to whom its provisions are still in observance and in force.

In order to distinguish those who were to be sent to correction houses from those who were to be maintained by parochial contributions, the act 1672 appoints the KIRK-SESSION, ALONG WITH THE HERITORS, to make up

lists of the poor, and inquire if they be able or unable to work, by reason of age, infirmity, or disease, "and to condescend upon such as, through age and infirmity, are not able to work, and appoint them places where to abide, that they may be supplied by the contributors at the parish kirks;" and as to all such that "are of age and capacity to work" to send them to the correction-houses provided none of the inhabitants will accept of them in terms of the act 1617, c. 10.

There are three later statutes relative to the poor, which contain directions for carrying the former into more rigorous execution, and grant power to the privy council for this purpose, to wit, the acts 1695, c. 43; 1696, c. 29; and 1698, c. 29.

A theory has recently been broached by an eminent judge in the Court of Session, that our poor laws rest entirely upon the proclamations of the privy council alone, and that the several acts of parliament relative to this matter have been superseded by these proclamations.\* This dictum, however, was in no degree sanctioned by the court; and without going into any detail of the grounds on which the soundness of the doctrine may be questioned, we refer for a statement of these to Mr. Dunlop's excellent Treatise on Parochial Law, page 177, and with regard to the substance of these proclamations, we quote a summary given by that respectable author.

"The first proclamation (Aug. 11, 1692) directs the heritors and kirk-sessions of landward parishes to assess themselves for the support of the poor, introducing a distinction between heritors and the rest of the inhabitants, or householders as the proclamation styles them, in the imposition of the assessment, which is divided into halves, the one to be laid on the former, and the other on the latter. It directs the heritors to put the poor to work; makes provision for the transmission of beggars to their own parishes; imposes fines on persons giving alms to beggars beyond their parish, or refusing to pay their quota

\* Buchanan against Parker, Feb. 21, 1827. *Vide* Shaw and Dunlop, 3, vol. V.

to the support of the regular poor ; and, finally, ordains correction-houses to be immediately built by the greater burghs, to serve until the lesser burghs be able to erect theirs.

“ The second proclamation (Aug. 29, 1693) renews the directions as to beggars repairing to their own parishes, under pain of being imprisoned as vagabonds, and fed on bread and water for a month ; appoints the magistrates in burghs, and the heritors in vacant parishes, to lay on assessments for the support of the poor ; and ordains the kirk-sessions to give one-half of the collections for the same purpose.

“ By the third proclamation (July 31, 1694) power is given to the sheriffs, justices of peace, and magistrates of burghs, to impose fines on all persons not obeying and carrying into execution the several acts and proclamations relative to the poor ; and a committee of the privy council is appointed to take cognizance of the diligence of the sheriffs.

“ The last of these proclamations (March 3, 1698), besides giving a general power to the heritors and kirk-sessions to determine all questions ‘ in relation to the ordering and disposing of the poor,’ makes an expiring effort to compel the burghs to build correction-houses, by imposing on them, besides the pecuniary penalties inflicted by former acts and proclamations, the burden of maintaining all the poor who might be sent to them, until such houses should be erected.

“ These proclamations complete the enactments relative to the poor, the provisions of which may be divided into two distinct classes ; the one having reference to the support of the aged and impotent poor, the other relating to the employment of vagabonds and idle persons. The former confer a right on the poor, for whose behoof they were made ; the latter impose a punishment on those for whose suppression they were intended. The latter class have, happily, never been carried into execution, and probably could not now be enforced. Indeed, except as to some lesser penalties against vagabonds which have been kept up in practice, these statutes may be considered as

in total desuetude.\* The system for support of the impotent poor, established by the other class of statutes, as it now exists in practice, may be considered in general to be as nearly perfect as any system of legal provision can be. As it professes not to maintain, or to provide employment for persons able to work, or who have relatives from whom they can demand support, it does not tend to encourage idleness, to interfere with the profits of the industrious labourer, or to loosen the bonds of natural affection;—as the power of levying assessments and of granting relief is vested, in the first instance, in those who are chiefly liable in the support of the poor, there is little danger of extravagance in the administration of the funds; and as the management and ‘ordering’ of the poor is generally entrusted to the elders, who act gratuitously, little expense is incurred besides the sums actually employed in affording relief; while, at the same time, a sure re-

\* The circumstance of these statutes having fallen into desuetude may have been partly owing to the poverty of the burghs in Scotland, which prevented the establishment of correction-houses; but it must be chiefly attributed to the excellent adaptation of the ecclesiastical establishment of Scotland, and the system of parochial schools, to effect the moral and intellectual improvement of the people. The absence of moral and intellectual cultivation, as it confines the wants and desires of a people to the indulgence of their animal appetites, which, in consequence, they gratify without the check of any moral restraint, necessarily produces pauperism and wretchedness, by its tendency to increase the population of a country beyond the means of supply. On the other hand, an improved moral condition, resulting from religious and intellectual cultivation, by inspiring man with nobler desires and higher objects of ambition, raises him in the scale of humanity, and enables him to restrain the grosser propensities of his nature within those bounds which he sees to be necessary for the comfort, happiness, and respectability of himself and his family. Accordingly, in Scotland, pauperism decreased exactly in proportion as the inhabitants advanced in moral improvement; and it has again augmented of late years, as the means of educating the lower orders of society have become inadequate, owing to the great increase of the population, especially in manufacturing towns. It is on the same principle that the deficiency of institutions for effectually educating the lower classes in England has been the true cause of the alarming extent of pauperism in that country, and of calling into such fearfully active operation, provisions of the legislature similar to those which have fallen into total desuetude in Scotland, the effect of which again is to accelerate the moral degradation of the people and the increase of pauperism. And it is owing to the absence of effectual means of properly instructing the people, that Ireland has become almost a nation of paupers.—*Notes by Mr. Dunlop.*

source is provided for the helpless poor 'who shall never cease out of the land,' should voluntary charity fail; and a constant intercourse is produced between the poor and those of a rank superior to themselves, which alone would render any system a blessing to the society in which it exists."

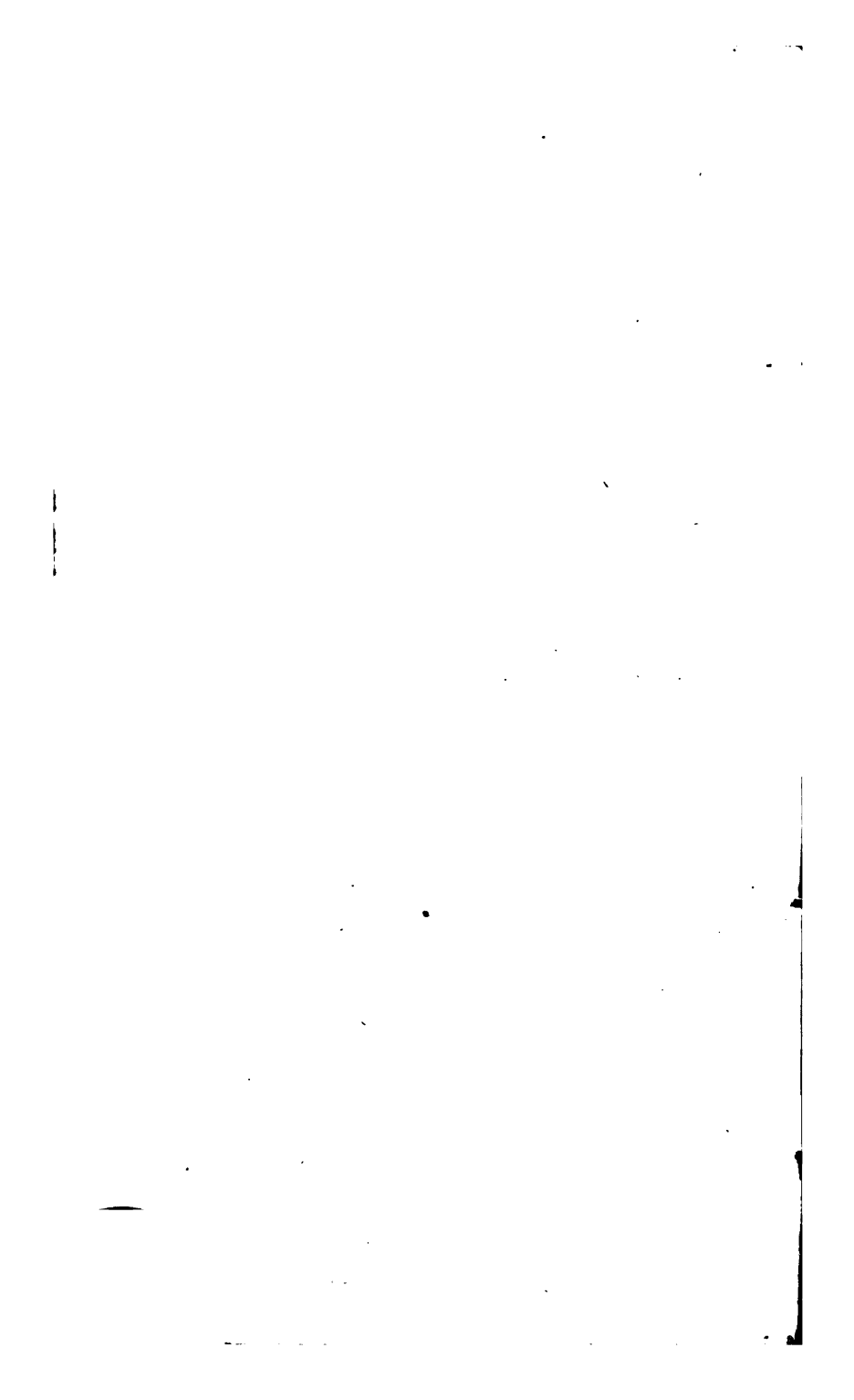
Having thus briefly exhibited the statute law of Scotland with regard to the poor, we do not deem it necessary to specify all the cases which have been decided in the courts of law in the application of the statutory enactments. These, from their very nature, are as multifarious as the cases out of which they have arisen are diversified; and as the application of the law is in a great measure under the discretionary judgment of kirk-sessions and heritors, subject to the control of the supreme court, when they go wrong, it seems unnecessary to encumber them with a multitude of cases which have arisen out of specialties which can never be influenced by faint analogies in other cases. The spirit of the law cannot be misunderstood, and its application must depend for a wholesome operation upon the prudence and humanity of those who are entrusted with the administration. We would earnestly recommend, however, to the study of those who are so entrusted, Mr. Dunlop's valuable work, which ought to be in possession of every kirk-session throughout Scotland, where, amid the number and intricacy of the claims brought before them, they will derive light and information which may assist in guiding them aright.

In conclusion, we may observe, that attempts have within these few years been made by theorists of considerable name, to throw discredit upon the poor-laws of Scotland, with the view of substituting in their place a scheme of eleemosynary bounty; and it has been assumed, somewhat unwarrantably, considering the selfish tendencies of human nature generally, that the voluntary charities of the people are adequate to supply the wants of the poor. This theory is altogether visionary; and although, fortunately for Scotland, assessments for the poor have never in any instance reached that frightful magnitude which has rendered the English poor-laws so objection-

able, it is manifest that an abandonment of them would lead inevitably to the same state of moral and political degradation to which Scotland was reduced at a former period, and which at this moment is so fully exemplified in Ireland. Fortunately the admirable machinery which has been established in Scotland has checked the growth and the abuse of assessments, and, indeed, these are totally unknown through a great part of Scotland, where the ordinary collections at the churches, and occasional benefactions by heritors, have been found adequate to supply the wants of the poor, without engrafting a permanent and degrading system of pauperism upon the institutions of the country, and the character of the people.

THE END.

## **APPENDIX.**





## APPENDIX.

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### FORMS OF COMMISSIONS TO REPRESENTATIVES IN ASSEMBLIES.

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THE FORM OF COMMISSIONS AND ATTESTATIONS, AS APPOINTED BY ACT 4, ASS. 1768, REPRINTED BY ORDER OF ASSEMBLY 1783.

#### *Commission from Presbyteries.*

AT —, the — day of — years. The which day, the presbytery of — being convened betwixt the hours of one and eight o'clock in the evening, in order to elect their representatives to the ensuing Assembly, pursuant to a resolution entered into their minutes on the — day of —, did, and hereby do, nominate and appoint Mr. —, minister at —, and Mr. —, minister at —, and —, and —, ruling elders, their commissioners to the next General Assembly of this church, indicted to meet at —, the — day of — next to come, or when or where it shall happen to sit, willing them to repair thereto; and to attend all the diets of the same; and there to consult, vote, and determine in all matters that come before them, to the glory of God and the good of his church, according to the word of God, the confession of faith, and agreeable to the constitution of this church, as they will be answerable; and that they report their diligence therein at their return therefrom. And the said presbytery does hereby testify and declare, that all the ministers above named have

signed the *formula* enjoined by the 10th act of Assembly 1711; and the ruling elders above written have signed the *formula* prescribed by the 11th act of the Assembly 1694. And further, that the said elders are of unblemished characters, circumspect in their walk, regular in giving attendance on the ordinances of divine institution, and behave in other respects agreeable to their office: All which the presbytery have hereby attested on proper information.

Extracted by A. B. *Cls.*

*Commissions in the case of an after-election of a Commissioner, in place of one formerly chosen.*

At —, the — day of — years. The which day, the presbytery of — being convened betwixt the hours of one and eight in the evening, and (here the occasion of the new election to be narrated) did, and hereby do, nominate and appoint in his place, Mr. —, minister at —, (or, if an elder, —, ruling elder), their commissioner to the next General Assembly; and do hereby testify and declare (if a minister) that he hath signed the *formula* enjoined by the 10th act of Assembly 1711, or (if an elder) that he is in all respects qualified in the same manner as their commissioner in whose room he is chosen, which the presbytery hereby attests upon proper information.

Extracted by A. B. *Cls.*

*Attestation.*

At —, the — day of — years. The which day, the presbytery of — having had the above extract of their commission to their representatives in the ensuing Assembly laid before them, they caused it to be read, and having revised and considered the same, they did approve thereof.

Attested by A. B. *Moderator.*  
C. D. *Cls.*

*Commission from a University.*

At —, the — day of — years. The which day, the principal, professors, masters, and other members of

the university of —, having a right to elect, being convened betwixt the hours of one and eight o'clock in the evening, in order to elect their representative to the ensuing Assembly, pursuant to a resolution entered into their minutes on the — day of —, did, and hereby do, nominate and appoint — their commissioner to the next General Assembly of this church, indicted to meet at —, the — day of — next to come, or when and where it shall happen to sit, willing him to repair thereto; and to attend all the diets of the same; and there to consult, vote, and determine in all matters that come before them, to the glory of God and the good of his church, according to the word of God, the confession of faith, and agreeable to the constitution of this church, as he will be answerable; and that he report his diligence therein at his return therefrom. And it is hereby testified and declared, that the said — is a minister (or an elder) of this church, lawfully ordained, and (if a minister) hath signed the *formula* enjoined by the 10th act of the Assembly anno 1711; or (if an elder) hath signed the *formula* prescribed by the 11th act of the Assembly 1694. And further, that the said commissioner is every other way qualified to be a member of the Assembly, according to the acts of the Assembly; and (if an elder it must be said) in particular, he is of an unblemished character, circumspect in his walk, regular in giving attendance on the ordinances of divine institution, and behaves in other respects agreeable to his office. All which the university have hereby attested on proper information.      Extracted by      C. D. Cls.

*In the case of an after-election of a Commissioner from a University, in place of one formerly chosen.*

At —, the — day of — years. The which day, the principal, professors, masters, and other members of the university of —, being convened betwixt the hours of one and eight in the evening, and (here the occasion of the new election to be narrated) did, and hereby do, nominate and appoint in his place — their commissioner to the next General Assembly; and it is hereby testified

and declared, that he is in all respects qualified in the same manner as their former commissioner, in whose room he is chosen, which the university attests on proper information.

Extracted by C. D. Cls.

*N. B.*—This form for universities is prescribed, on the supposition that the former commissioner, and the person chosen in his place, are either both of them ministers, or both of them elders. But if an elder is chosen in the place of a minister, or a minister in the place of an elder, then the attestation must contain the words at length of the form prescribed for the first election.

*Attestation.*

At —, the — day of — years. The which day, the presbytery of — having had before them a commission given by the university of —, to —, to represent the said university in the ensuing General Assembly of this national church, do, in terms of the 4th act of Assembly 1720, the 7th act of Assembly 1723, and 4th act of Assembly 1724, testify and declare, that the said — is a minister (or an elder), lawfully ordained; that he has signed the *formula* enjoined by the 10th act of Assembly 1711; or (if an elder) hath signed the *formula* prescribed by the 11th act of Assembly 1694; and that he is a master of the said university of —. And further, that the said commissioner is every other way qualified to be a member of the Assembly, according to the acts of Assembly.

This signed by

A. B. Moderator.

C. D. Cls.

*Commissions from Burghs.*

At —, the — day of — years. The which day, the magistrates and town-council of — being convened in council, betwixt the hours of one and eight o'clock in the evening, in order to elect their representative to the ensuing Assembly, pursuant to a resolution entered into their minutes on the — day of —, did, and hereby do,

nominate and appoint —, ruling elder, their commissioner to the next General Assembly of this church, indicted to meet at —, the — day of — next to come, or when and where it shall happen to sit, willing him to repair thereto, and to attend all the diets of the same; and there to consult, vote, and determine in all matters that come before them, to the glory of God, and the good of his church, according to the word of God, the confession of faith, and agreeable to the constitution of this church, as he will be answerable; and that he report his diligence therein at his return therefrom. And it is hereby testified and declared, that the said — is an elder of this church, lawfully ordained, and hath signed the *formula* enjoined by the 11th act of the Assembly 1694, and is every other way qualified to be a member of Assembly; and likewise that he is (a resider in the said burgh), or (an heritor in the said burgh), or (an heritor in the bounds of the presbytery of —, within which the said burgh lies), or (has formerly resided and officiated as an elder in the said burgh), or (presbytery of —, within which the said burgh doth lie), according to the acts of Assembly; and in particular, that he is of unblemished character, circumspect in his walk, regular in giving attendance on the ordinances of divine institution, and behaves, in other respects, agreeable to his office. All which the magistrates and town-council have attested on proper information.      Extracted by      C. D. Cls.

*In the case of an after-election of a Commissioner for a Burgh, in the place of one formerly chosen.*

At —, the — day of — years. The which day, the magistrates and town-council of — being convened, betwixt the hours of one and eight in the evening (here the occasion of the new election to be narrated), did, and hereby do nominate and appoint in his place —, ruling elder, their commissioner to the next General Assembly; and it is hereby testified and declared, that the said — is (a resider in the said burgh), or (an heritor in the said burgh), or (an heritor in the bounds of the presbytery

of —, within which the said burgh lies), or (has formerly resided and officiated as an elder in the said burgh), or (presbytery of —, within which the said burgh doth lie), and that he is in all other respects qualified in the same manner as their former commissioner, in whose room he is chosen, which the magistrates and town-council do attest on proper information.      Extracted by      C. D. *Cls.*

*Attestation by the Kirk-Session.*

At —, the — day of — years. The which day, the kirk-session of — having had laid before them a commission by the magistrates and town-council of —, to —, ruling elder, to represent the said burgh in the ensuing General Assembly of this national church, do, in terms of the 4th act of Assembly 1720, testify and declare, that the said — is an elder lawfully ordained, and that he has signed the *formula* prescribed by the 11th act of the General Assembly 1694; and likewise, that he is (a residenter in the said burgh), or (an heritor in the said burgh), or (an heritor in the bounds of the said presbytery of —, within which the said burgh lies), or (has formerly resided and officiated as an elder in the said burgh), or (presbytery of —, within which the said burgh doth lie.)      Attested by      A. B. *Moderator.*

C. D. *Cls.*

*Attestation by the Presbytery.*

At —, the — day of — years. The which day, the presbytery of — having had produced before them a commission given by the magistrates and town-council of —, to —, to represent the said burgh in the ensuing General Assembly of this national church, with an attestation of the kirk-session of the said burgh, conform to the direction of the act 9th of Assembly 1718; act 4th of Assembly 1720; and act 4th of Assembly 1724, do, in terms of the foresaid acts, likewise testify and declare, that the said — is an elder lawfully ordained, and that he has signed the *formula* prescribed by the 11th act of Assembly 1694; and likewise, that he is (a residenter in the said burgh), or (an heritor in the said burgh), or (an

heritor in the bounds of the presbytery of —, within which the said burgh lies), or (has formerly resided and officiated as an elder in the said burgh), or (presbytery of —, within which the said burgh doth lie). And further, that the said commissioner is every other way qualified to be a member of the Assembly, according to the acts of Assembly. This signed by A. B. Moderator.

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### CHAPELS OF EASE.

#### *Regulations to be observed in framing Constitutions for Chapels of Ease.*

1826. The committee appointed last year to revise the constitutions which have been given to different chapels of ease, and prepare a form, &c. report unto the venerable the General Assembly, as follows:

That the committee have examined the constitution given to twenty-two chapels of ease in the course of the last twenty-seven years, and respectfully suggest, that, after having observed the provisions of the fifth act of Assembly 1798, the articles in the constitution of any proposed chapel shall, in time coming, be introduced in the following order:

1. The property of the chapel to be invested in whom.
2. To be exclusively for the use of a minister of the church of Scotland.
3. Management and application of the seat rents.
4. If debt incurred in erecting the chapel, how to be liquidated.
5. Managers and administration to be under the inspection of the presbytery.
6. Manner of electing managers, and supply of vacancies, when they occur.
7. If a treasurer and clerk, how appointed and paid.
8. Amount of stipend.
9. What security for the same, and time of payment.
10. Plan of augmenting the stipend when necessary.

11. Collections, and application of the money collected.
12. Who are to choose the first minister, and how long to have this power.
13. The manner of supplying vacancies after the chapel is permanently established.
14. Supply of the pulpit during vacancies.
15. Names of candidates to be laid before the presbytery.
16. Certificates of candidates to be laid before the presbytery, and judged of.
17. Day of election how to be appointed, and mode of calling meetings for this and other purposes.
18. Election, letter of acceptance, certificate of having taken the usual oaths, and renewed bond of security, to be laid before the presbytery.
19. Duty to be performed by the minister when inducted.
20. If a Gaelic chapel, what portion of the service to be performed in that language, and what in English.
21. Bounds within which he is to labour, if any are fixed.
22. When the sacrament is to be dispensed.
23. How persons are to be admitted to partake of the same.
24. Allowance for communion elements, and to the minister when the sacrament is dispensed.
25. Mode of letting the seats, and time when to be done.
26. Persons to be proposed, if any preference is to be given.
27. Precentor, by whom appointed and with what salary.
28. Officer, by whom appointed, and with what allowance.

The committee have only farther to remark, that when circumstances occur not requiring some of the particulars mentioned to be specified, they may be omitted, while the above order is observed in specifying those which are introduced. When, on the other hand, it is found necessary to introduce other particulars, they may be added after those which occur in the above enumeration.



**OPINION of the late LORD PRESIDENT BLAIR as to  
the PROFANATION of the SABBATH.**

1823. The statutes now in force, with respect to the observance of the sabbath day, appear to me to be sufficient for checking the evil complained of. The statutes which I mean are the following :—act 1661, c. 18 ; 1672, c. 22 ; 1693, c. 40 ; 1695, c. 13 ; and act 1701, c. 11.

By these statutes, every person guilty of profaning the sabbath day in any manner whatever, is made liable in a pecuniary penalty, *toties quoties*, to be recovered by prosecution before sheriffs, justices of peace, or any other judge ordinary. And the minister of every parish, the kirk-session, or the presbytery, or a person named by them, is entitled to prosecute.

There appears, therefore, to be no defect in the law as it stands, if duly executed. And the power of enforcing execution is lodged with the church judicatories themselves. Perhaps it might be proper to cause print the above statutes, and transmit copies thereof to the different presbyteries, so that due notification may be given to all concerned. (Signed) ROBERT BLAIR.

*Edinburgh, 24th May 1794.*

The following are the acts of parliament and parts of acts referred to in the above opinion.

Anno 1661, c. 18.

*Act for the due Observation of the Sabbath Day.*

The king's majesty, considering how much it concerns the honour of God, that the sabbath day be duly observed, and all abuses thereof restrained : And that, notwithstanding of several acts of parliament made in that behalf, particularly the third act of the sixth parliament of King James the Sixth, of blessed memory, the said day hath been much profaned by salmond-fishing, going of salt-pans, milns and killes, hiring of shearers, and using of merchandise on that day, and otherways : Therefore

our sovereign lord, with the advice and consent of his estates of parliament, ratifies and approves all former acts of parliament, made for observation of the sabbath day, and against the breakers thereof ; and by these presents, inhibits and discharges all salmond-fishing, going of salt-pans, milns or killes ; all hiring of shearers, carrying of loads, keeping of mercats, or using any sorts of merchandise on the said day, and all other profanation thereof whatsoever, under the pains and penalties following, viz. the sum of twenty pounds Scots for the going of ilk salt-pan, miln or kiln, on the said day, to be paid by the heritors and possessors thereof ; and the sum of ten pounds for ilk shearer and fisher of salmond on the said day, the one-half thereof to be paid by the hirers and conducers, and the other half by the persons hired ; and the said sum of ten pounds for every other profanation of the said day : And which fines and penalties are to be uplifted and disposed of in manner contained in the act and instructions anent the justices of peace.

Anno 1672, c. 22.

*Act against Profaneness.*

Our sovereign lord, considering the many and great violations of the law of God, and of the laws of this kingdom, established by his Majesty and his royal predecessors, against cursing, swearing, &c. profanation of the Lord's day, mocking or reproaching of religion, and the exercises thereof ;—it is hereby statute and ordained, that besides the exercise of church discipline, according to the laws and practice used in this church, in every paroch within royal burgh, or wherein any of his Majesty's Privy Council or Lords of Session, sheriff, lord, or bailiff of regality, or their deputes, or commissaries, have their residence, or keep courts, that the saids councillors, or Lords of Session, magistrates of such burghs, the sheriffs, and the lords, and bailiffs of regalities, or their deputes, the commissaries, or any justice of peace, they, or any one, or more of them, execute, or cause execute, the said laws, against such delinquents in the several paroches where

they reside, as shall be delated to them by the kirk-sessions, or other church judicatories. Providing always, likeas it is hereby provided, that the minister and kirk-session, with the heritors of each parish, or such of them as, upon public intimation by the minister from the pulpit, upon eight days' warning, shall meet with the minister and his assistants, in discipline, have the nomination of a collector, who is to receive and count for the fines so imposed; excepting to the royal burghs the nomination of their collectors, who have been accustomed so to nominate, they always being accountable, as other collectors, for the uses after specified; and where there be any paroches in which there is none of the saids above-named persons in authority resident, the minister and kirk-session, and heritors of the parish, or major part of them, who shall convene upon public intimation by the minister, upon eight days' warning, shall nominate, so often as they see cause, a person resident within the paroch, whom they find most fit for executing of the saids statutes, and shall, under their hand, offer the person so chosen to the sheriffs, lords, and bailiffs of regalities, stewarts, commissaries, having the ordinary jurisdiction of that place, who are hereby authorised to give commission and deputation to the persons so chosen for convening the persons transgressors of the foresaid statutes, and to judge them according to law: And it is hereby declared, that all execution shall pass upon the decreets and sentences of the saids judges and commissioners, as do or may pass upon the decreets or sentences of sheriffs, bailiffs of royalty or regality, for executing of the saids statutes, conform to the tenor thereof in all points; with power to the said minister, kirk-session, and heritors of each paroch, convened in manner aforesaid, to modifie and appoint such part and portion of the sums arising by the saids decreets, to the collectors nominat by them for their services, as they shall find just, according to their pains and diligence. And it is hereby declared that the remainder of the said sums shall belong to, and be made use of for, the poor of each paroch *respective*, in manner following:—The one half thereof for the use of the poor of each paroch to be sent to the cor-

rection-houses, for being bred to lawful trades, conform to an act of parliament made in this session of parliament ; and for which the collector shall be comptable to the heritors of each paroch, and shall deliver to them receipts from the masters of the correction-houses of the one-half of the saids sums, toward the allowance of the said poor people appointed to be paid out of each paroch by the said act ; and the other half of the said fines shall belong to the poor of each paroch *respective*, who, by the said act, by reason of their age or infirmity, are appointed to be entertained within each paroch by the contributions at the paroch kirk, and for which the said collectors are to be comptable to the minister and kirk-session of each paroch, or to the elders during the vacancy ; and to be applied by them for the use of the poor, as they shall see cause.

Anno 1693, c. 40.

*Act against Profaneness.*

OUR sovereign lord and lady, taking to their serious consideration the profanity and immoralities that so much at present abound, and how much it concerns the glory of God, the honour of the Protestant religion, and the good and peace of the kingdom, that they be repressed and restrained ; do, therefore, with advice and consent of the estates of parliament, hereby ratify and revive all acts of parliament formerly made against sabbath-breaking, profane and idle swearing, drunkenness, or other immoralities whatsoever, ordaining the same to be put to strict execution with all diligence. And for the better effectuating thereof, do hereby empower and ordain every presbytery within this kingdom to appoint one or more within their respective bounds, whom they shall think fit to choise, to take notice of the foresaid vices and immoralities, and to delate and prosecute the persons guilty thereof before the magistrates of the bounds, conform to the tenors of the saids acts ; and allowing to them out of the fines and penalties that shall be incurred, not only

their whole charges and expenses of the said prosecutions, but also such further rewards as the lords of their majesties' privy council shall think fit.

Anno 1695, c. 13.

*Act against Profaneness.*

Our sovereign lord and estates of parliament, considering that the twenty-fifth act of the second session of this current parliament, intituled, act against profaneness, and the acts generally and particularly therein ratified, has not taken the wished effect, through the negligence of the magistrates, officers, and others concerned to put the same in execution ; do hereby authorise, and strictly require and enjoin all sheriffs and their deputies, stewarts and their deputies, bailies of bailiaries and regalities and their deputies, magistrates of burghs royal and justices of peace, within whose bounds any of the sins forbidden by the said laws shall happen to be committed, to put the said acts to exact and punctual execution at all times, without necessity of any dispensation, and against all persons, whether officers, soldiers, or others, without exception ; with this certification, that such of the said judges as shall refuse, neglect, or delay, to put the said laws in execution, upon application of any minister or kirk-session, or any person in their name, giving information and offering sufficient probation against the offender, that every one of the saids judges so refusing, neglecting, or delaying, shall, *toties quoties*, be subject and liable to a fine of one hundred pounds Scots, to be applied for behoof of the poor of the parish where the scandal complained on was committed : Declaring hereby that the agent for the kirk, the minister of the parish, or any other person having warrand from him, or from the kirk-session within the parish whereof the scandal complained on was committed, shall have good interest to pursue, before the lords of session, any of the foresaid judges who shall happen to refuse, neglect, or delay to put the saids laws against profaneness to exact and punctual execution, who are hereby ordained to proceed summarily without the order

of the roll ; and that shall be a sufficient probation o-  
their refusal, neglect, or delay, if the pursuer instruct by  
an instrument under a nottar's hand, and witnesses there-  
to subscribing, and deponing thereupon, that he did in-  
form the saids judges of the said scandal, and offered a  
sufficient probation thereof, unless the judge so pursued  
condescend and instruct, that within the space of ten days  
after the said application, he gave order to cite the party  
complained on to compear before him within the space of  
ten days, and that at the day of compearance he was  
ready and willing to have taken cognition and trial of the  
scandal complained on, and instruct and condescend on  
a relevant reason why the saids laws were not put in exe-  
cution against the person complained on.

Anno 1701, c. 11.

*Act against Profaneness.*

— Ratifies and approves the acts following, viz. the  
act of parliament 1672, intituled Act against Profaneness,  
whereby all members of his majesty's privy council, or  
Lords of Session, with all judges ordinary having their  
residence, or keeping courts, in any paroch, are ordained  
to execute, or cause execute, the said laws against any  
such delinquents therein as shall be delated to them by  
the kirk-sessions, or other church judicatories, with power  
to the kirk-session and heritors to name a collector of the  
fines ; as also, where none of the foresaid persons in au-  
thority reside, to nominate a person resident within the  
paroch, whom they shall offer to the judge-ordinary of the  
bounds, to the end he may grant them a deputation to the  
effect foresaid ; as likewise, to modify and appoint such  
fees to the said collectors out of the saids fines as they  
shall find just, and that the remainder of the saids fines  
be applied for the use of the poor, in manner specified in  
the said act.—The act of parliament 1693, also intituled  
Act against Profaneness, whereby every presbytery within  
this kingdom is empowered and ordained to appoint one  
or more within their respective bounds to take notice of  
all vices and immoralities, and to delate and prosecute the

persons guilty, conform to the tenor of the former acts, and allowing to them, out of the fines, not only the whole expenses, but such rewards as the lords of the privy council shall think fit.—The act 1695, likewise intituled Against Profaneness, whereby all the judges-ordinary, and their deputes, and all justices of peace, within whose bounds any of the said offences shall happen, are authorized and enjoined to put the said acts against profaneness to exact and punctual execution, at all times, without necessity of any dispensation, and against all persons, whether officers, soldiers, or others, without exception; with certification that any of the said judges that shall refuse or neglect to put the said laws in execution, upon the application of any minister, kirk-session, or any person in their name, informing and offering sufficient probation, he shall be liable and subject, *toties quoties*, to a fine of one hundred pounds Scots for the poor of the paroch where the scandal happened; declaring that the agent for the kirk, the minister, or kirk-session, of the paroch, or any having their warrant, shall have good interest to pursue, before the Lords of Session, any of the said judges refusing or neglecting, as said is. And that the said refusal or neglect shall be sufficiently proven by an instrument under a nottar's hand, and witnesses subscribing, and deponing that the said information was given, and probation offered, as the said act more fully bears.—And lastly, the act 1696, also intituled Act against Profaneness, in the haill heads, articles, and clauses thereof;—all which laws and acts of parliament, generally and particularly above narrated, his majesty, with advice and consent foresaid, ordains to be put to strict and punctual execution in all points; and farther, all ministers and kirk-sessions, and heritors concerned, are hereby required and ordained to do and act their parts faithfully in the premises, as they will be answerable; and in case any person shall be excommunicate for not answering, or for not obeying and satisfying the church, when processed before them for profaneness and immorality, or in case that any person, cited on the account foresaid, shall be declared by the church to be contumacious, then, and in either of these

cases, his majesty, with advice and consent foresaid, statutes and ordains, that, upon application made by a presbytery, provincial synod, or General Assembly, to his majesty's privy council, representing the same, the lords of privy council shall represent the said matter to his majesty, that he may be duly informed anent the foresaid person found guilty or contumacious, as said is, as a person not fit to be employed or continued in any place of public trust, civil or military.

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